

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF ALABAMA
EASTERN DIVISION**

| | | |
|-------------------------|---|----------------------------------|
| NORMAN E. LACEY, |) | |
| |) | |
| Plaintiff, |) | |
| |) | |
| v. |) | CASE NO: 3:06-CV-1145-MEF |
| |) | |
| CITY OF AUBURN, |) | |
| |) | |
| Defendant. |) | |

PLAINTIFF'S EVIDENTIARY SUBMISSION

1. Exhibit #1-Plaintiff's EEOC Charge
2. Exhibit #2-Part 1-Plaintiff's Deposition
Exhibit #2-Part 2-Plaintiff's Deposition
3. Exhibit #3-Plaintiff's Resume`and Water Certifications
4. Exhibit #4-Plaintiff's First Application
5. Exhibit #5-City of Auburn Welcome Documents
6. Exhibit #6-City of Auburn Benefits Docuemnts
7. Exhibit #7-City of Auburn Job Vacancy Posting
8. Exhibit #8-Opelika-Auburn News Advertisement
9. Exhibit #9-Lacey's Application for Water Distribution Position
10. Exhibit #10-Job Description for Water Distribution Manager (this is not the correct exhibit, please see Corrected Exhibit 10 which we be filed separately)

11. Exhibit #11-Lacey Applicant Evaluation Summary
12. Exhibit #12-Hildreth Applicant Evaluation Summary
13. Exhibit #13-Hildreth Application
14. Exhibit #14-City of Auburn In-house Termination Checklist
15. Exhibit #15-Certified Letter from City of Auburn Benefits Person
16. Exhibit #16-City of Auburn Employment at Will Disclaimer

Respectfully submitted,
/s/Roderick T. Cooks
Counsel for the Plaintiff

OF COUNSEL:

WINSTON COOKS, LLC

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CERTIFICATE OF SERVICE

I hereby certify that I have served a copy of the foregoing document on all persons listed below by CMF/Electronic Mail:

Randall Morgan, Esq.
Hilll, Hill, Carter, Franco,
Cole & Black, P.C.
425 South Perry Street
Montgomery, Alabama 36104
334-834-7600

Done this the 14th day of January, 2008.

/s/Roderick T. Cooks
Of Counsel

EXHIBIT 1


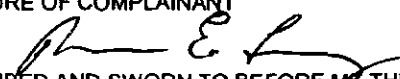
| | | | |
|---|--|---|--------------------------------------|
| CHARGE OF DISCRIMINATION | | AGENCY <input type="checkbox"/> FEPA <input checked="" type="checkbox"/> EEOC | CHARGE NUMBER 420 2006 C 3522 |
| This form is affected by the Privacy Act of 1974. See Privacy Act Statement before completing this form. | | | |
| State or local Agency, if any | | and EEOC | |
| NAME (Indicate Mr., Ms., Mrs.) Norman E. Lacey | | HOME TELEPHONE (Include Area Code) (706) 518-4809 | |
| STREET ADDRESS 5508 16th Avenue | CITY, STATE AND ZIP CODE Valley, AL 36854 | DATE OF BIRTH 08/10/1948 | |
| NAMED IS THE EMPLOYER, LABOR ORGANIZATION, EMPLOYMENT AGENCY, APPRENTICESHIP COMMITTEE, STATE OR LOCAL GOVERNMENT DISCRIMINATED AGAINST ME (If more than one list below.) | | | |
| NAME Auburn WaterBoard | NUMBER OF EMPLOYEES, MEMBERS Over 15 | TELEPHONE (Include Area Code) | |
| STREET ADDRESS 1501 West Samford | CITY, STATE AND ZIP CODE Auburn, Alabama 36832 | COUNTY Lee | |
| NAME | | TELEPHONE NUMBER (Include Area Code) | |
| STREET ADDRESS | | COUNTY | |
| CITY, STATE AND ZIP CODE | | | |
| CAUSE OF DISCRIMINATION BASED ON (Check appropriate box(es)) | | DATE DISCRIMINATION TOOK PLACE EARLIER | |
| <input type="checkbox"/> RACE <input type="checkbox"/> COLOR <input type="checkbox"/> SEX <input type="checkbox"/> RELIGION <input checked="" type="checkbox"/> AGE <input type="checkbox"/> RETALIATION <input type="checkbox"/> NATIONAL ORIGIN <input type="checkbox"/> DISABILITY <input type="checkbox"/> OTHER (Specify) | | May 2006 <input checked="" type="checkbox"/> CONTINUING ACTION | |
| THE PARTICULARS ARE (If additional paper is needed, attach extra sheet(s)): | | | |
| <p style="text-align: center;"><i>1998 AEF</i></p> <p>I was hired by the City of Auburn/Auburn Water Board (Respondent) in August of 1998 as Water Plant Operator. I worked in this position for approximately seven years when I was promoted to the position of Chief Operator. Prior to coming to work for the Respondent I had approximately 26 years of experience in the water utility business and possessed a Grade-4 Water Operators License and a Master Plumber's License. I have always performed my duties and responsibilities in an exemplary manner.</p> <p>II. In May of 2006, I was denied a promotion to a supervisory position that was awarded to a significantly less qualified and less experienced younger employee. Moreover, this employee was an outside hire.</p> <p>III. It is my belief that I was passed over for promotion because of my age, 57 years old, in violation of the ADEA.</p> | | | |
| I want this charge filed with both the EEOC and the State or local Agency, if any. I will advise the agencies if I change my address or telephone number and I will cooperate fully with them in the processing of my charge in accordance with their procedures. | | NOTARY - (When necessary for State and Local Requirements) | |
| I declare under penalty of perjury that the foregoing is true and correct. | | swear or affirm that I have read the above charge and that it is true to the best of my knowledge, information and belief. | |
|  Date _____ Charging Party (Signature) | | SIGNATURE OF COMPLAINANT  SUBSCRIBED AND SWORN TO BEFORE ME THIS DATE _____ (Day, month, and year) | |

EXHIBIT 2

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF ALABAMA
EASTERN DIVISION

CIVIL ACTION NUMBER

3:06-CV-1145-MEF

NORMAN E. LACEY,
Plaintiff(s),

vs.

CITY OF AUBURN,
Defendant(s) .

DEPOSITION TESTIMONY OF:

NORMAN E. LACEY

July 26, 2007

10 AM

SELAH M. DRYER, CSR

1 IN THE UNITED STATES DISTRICT COURT
2 FOR THE MIDDLE DISTRICT OF ALABAMA
3 EASTERN DIVISION
4

5 CIVIL ACTION NUMBER

6 3:06-CV-1145-MEF

8 NORMAN E. LACEY,

9 Plaintiff(s),

10 vs.

11 CITY OF AUBURN,

12 Defendant(s).

16 DEPOSITION TESTIMONY OF:

17 NORMAN E. LACEY

20 July 26, 2007

21 10 AM

23 SELAH M. DRYER, CSR

1 S T I P U L A T I O N

2 IT IS STIPULATED AND AGREED by and
3 between the parties through their respective
4 counsel that the deposition of NORMAN E. LACEY,
5 may be taken before Selah M. Dryer, Notary
6 Public, State at Large, in the conference room
7 of the Human Resources Building, 144 Tichenor
8 Avenue, Suite 3, Auburn, Alabama, on July 26,
9 2007, commencing at approximately 10 AM.

10 IT IS FURTHER STIPULATED AND AGREED
11 that the signature to and the reading of the
12 deposition by the witness is waived, the
13 deposition to have the same force and effect as
14 if full compliance had been had with all laws
15 and rules of Court relating to the taking of
16 depositions.

17 IT IS FURTHER STIPULATED AND AGREED
18 that it shall not be necessary for any
19 objections to be made by counsel to any
20 questions, except as to form or leading
21 questions, and that counsel for the parties may
22 make objections and assign grounds at the time
23 of trial or at the time said deposition is

1 offered in evidence, or prior thereto.

2 In accordance with Rule
3 5(d) of the Alabama Rules of Civil Procedure, as
4 amended, effective May 15, 1988, I, Selah M.
5 Dryer, am hereby delivering to Randall Morgan,
6 Esq. the original transcript of the oral
7 testimony taken July 26, 2007, along with
8 exhibits.

9 Please be advised that this is the same
10 and not retained by the Court Reporter, nor
11 filed with the Court.

1 I N D E X

| | |
|-------------------|----------|
| 2 EXAMINATION BY: | PAGE NO. |
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A P P E A R A N C E S

FOR THE PLAINTIFF(S):

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Lee Winston, Esq.

WINSTON COOKS

The Penick Building

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FOR THE DEFENDANT(S):

Randall Morgan, Esq.

HILL, HILL, CARTER, FRANCO,

COLE & BLACK, P.C.

425 South Perry Street

Montgomery, Alabama 36104

5

EXAMINATION BY MR. MORGAN:

Q. State your name, please.

A. Norman Lacey.

Q. Mr. Lacey, what is your date of birth?

A. August 10th, 1948.

Q. What is your Social Security Number?

A. 418-66-2239.

Q. Do you have a valid Alabama driver's license?

A. Yes, sir I do.

Q. What is that number?

A. I can look it up.

Q. Sure.

A. 2537095.

Q. Has your driver's license ever been suspended or revoked for any reason?

A. No, sir.

Q. Have you held a driver's license in any other states besides Alabama?

A. No, sir.

Q. Are you from Alabama?

A. Yes, sir.

Q. Where are you from?

A. Originally born in Prichard, Alabama.

Q. Are you married?

A. I'm divorced.

Q. How many ex-wives do you have?

A. One.

Q. What is her name?

A. Sheila.

Q. Is her last name still Lacey?

A. I don't know.

Q. Where does she live?

A. I am not certain of that.

Q. Where is the last place that you know she lived?

A. In Mobile, Alabama.

Q. What years were y'all married?

A. From 1972 until 1998 -- '99 I believe.

Q. Where were you living when you got divorced?

A. I was living in Demopolis,

6

I, Selah M. Dryer, a Notary Public for the State of Alabama at Large, acting as Commissioner, certify that on this date, pursuant to the Alabama Rules of Civil Procedure, and the foregoing stipulation of counsel, there came before me in the conference room of the Human Resources Building, 144 Tichenor Avenue, Suite 3, Auburn, Alabama, commencing at approximately 10 AM on July 26, 2007, NORMAN E. LACEY, witness in the above cause, for oral examination, whereupon the following proceedings were had:

NORMAN E. LACEY,

being first duly sworn, was examined and testified as follows:

COURT REPORTER: Usual

stipulations?

MR. MORGAN: Sure.

MR. COOKS: We would like to read and sign -- well, no, don't worry about it.

COURT REPORTER: Okay.

7

8

9

1 Alabama.

2 Q. Was the divorce there in Marengo
3 County?

4 A. No, sir. She was living in
5 Mobile. I was living in Demopolis.

6 Q. So your divorce was in Mobile?

7 A. Yes, sir.

8 Q. Did you have an attorney that
9 represented you?

10 A. No, sir.

11 Q. Did she have an attorney?

12 A. Yes, sir.

13 Q. Do you remember his name?

14 A. No, sir.

15 Q. Do you have any children?

16 A. Yes, sir.

17 Q. What's the oldest one's name?

18 A. Dorothy Heinz.

19 Q. H-I-N-D?

20 A. H-E-I-N-Z, sir.

21 Q. Where does she live?

22 A. Memphis.

23 Q. How old is she?

10

1 A. She's 29.

2 Q. Is her husband from Alabama?

3 A. No, sir.

4 Q. Did you have any other children
5 besides Dorothy?

6 A. Yes, sir.

7 Q. How long has she lived in Memphis?

8 A. About 2001, I believe, but I'm not
9 certain of that.

10 Q. What's your next child?

11 A. Lori.

12 Q. L-A-U-R --

13 A. L-O-R-I.

14 Q. What's Lori's last name?

15 A. Lacey.

16 Q. L-A-C-E-Y. Where does she live?

17 A. Memphis.

18 Q. How old is she?

19 A. She is 26.

20 Q. Do you have any more children?

21 A. Yes, sir.

22 Q. What's their name?

23 A. Jennifer.

11

1 Q. I'm going to let you spell that
2 one.

3 A. J-E-N-N-I-F-E-R.

4 Q. What's her last name?

5 A. Lacey.

6 Q. How old is she?

7 A. 24.

8 Q. Where does she live?

9 A. Mobile.

10 Q. Any other children?

11 A. No, sir.

12 Q. What is your current address?

13 A. 5508 16th Avenue in Valley,
14 Alabama 36854.

15 Q. How long have you had that
16 residence?

17 A. Three-and-a-half years.

18 Q. Does anybody live there with you?

19 A. No, sir.

20 Q. Has anybody ever lived there with
21 you?

22 A. No, sir.

23 Q. Where did you live before Valley,

12

1 Alabama?

2 A. I had an apartment on Rocky Brook
3 Road in Opelika.

4 Q. How long did you live there?

5 A. About five or six years.

6 Q. Anybody live with you in that
7 apartment?

8 A. No, sir.

9 Q. Where did you live before that?

10 A. Demopolis, Alabama.

11 Q. How long did you live in
12 Demopolis?

13 A. About three years.

14 Q. Where did you live before
15 Demopolis?

16 A. I lived in Jackson, Alabama for
17 about a year.

18 Q. And before Jackson where did you
19 live?

20 A. Mobile.

21 Q. Do you have any family members,
22 relatives by blood or marriage that live in
23 Chambers County?

13

1 A. No.

2 Q. How about in Lee County?

3 A. No.

4 Q. How about in Lee County, any

5 relatives by blood or marriage?

6 A. No.

7 Q. Any relatives by blood or marriage

8 in Macon County?

9 A. Not that I'm aware of.

10 Q. Do you have any relatives by blood

11 or marriage in Randolph County?

12 A. Not that I'm aware of.

13 Q. Do you have any relatives by blood

14 or marriage in Russell County?

15 A. Not that I'm aware of.

16 Q. Do you have any relatives by blood

17 or marriage in Tallapoosa County?

18 A. No, sir.

19 Q. Do you attend, or are you a member

20 of a church in any of those counties I just

21 listed: Chambers, Lee, Macon, Randolph, Russell

22 or Tallapoosa Counties?

23 A. I have occasionally attended

14

1 services in Chambers County. I don't consider

2 myself to be a member.

3 Q. What church?

4 A. The Catholic Church there, and I

5 don't recall the name of it right offhand.

6 Q. What city is that in?

7 A. It's in Lanett, Alabama.

8 Q. Other than the Catholic Church and

9 Lanett, have you attended any churches in any of

10 those counties that I named -- any other

11 churches?

12 A. Other than Marengo County, no,

13 sir.

14 Q. Are you a member of any clubs,

15 civic, social, political organizations or have

16 you been in Chambers, Lee, Macon, Randolph,

17 Russell or Tallapoosa Counties?

18 A. No, sir.

19 Q. Do you have any close friends,

20 people you would consider to be close friends

21 that live in any of those counties?

22 A. Yes, sir.

23 Q. Who would you consider to be close

15

1 friends that live in those counties?

2 A. Tony Embrey.

3 Q. E-M-B-R-Y?

4 A. E-M-B-R-E-Y.

5 Q. Where does he live?

6 A. She.

7 Q. She?

8 A. She lives in Chambers County.

9 Q. What city?

10 A. Valley.

11 Q. How old is she, approximately?

12 A. 53 or 54, I think -- I'm not

13 certain.

14 Q. Is she employed?

15 A. She's retired.

16 Q. From where?

17 A. I don't know.

18 Q. Do y'all have a romantic

19 relationship or friends?

20 A. We are friends. We have a

21 business relationship: She looks after some of

22 my affairs.

23 Q. Any other people that you would

16

1 consider to be close friends living in any of

2 those counties?

3 A. No, sir.

4 Q. How frequently do you know,

5 actually physically stay at the house on 16th

6 Avenue Valley?

7 A. Well when I'm not out of the

8 country, that's where I stay.

9 Q. Other than this lawsuit where you

10 have sued the City of Auburn, have you sued or

11 been a plaintiff in any other lawsuits?

12 A. No, sir.

13 Q. Have you ever been sued yourself?

14 A. No, sir.

15 Q. Have you ever made any claims

16 against anybody, or any company, or any business

17 that you have been wronged that did not result

18 in a lawsuit?

19 MR. COOKS: Object to the

20 form.

21 A. I have complained about goods and

22 services from time to time.

23 Q. (Mr. Morgan) I guess what I'm

17

1 asking you is like if you were in a wreck and
2 you made a claim with an insurance company and
3 reached some settlement to avoid a lawsuit or
4 anything like that?

5 A. No, sir.

6 Q. Have you ever filed any other
7 claims with the EEOC?

8 A. No, sir.

9 Q. Ever had any Worker's Comp claims?

10 A. I have never been paid Workman's
11 Comp -- I've had minor injuries at work.

12 Q. Were they reported as Worker's
13 Comp claims?

14 A. Yes, sir.

15 Q. Where were you working at the
16 time?

17 A. In Demopolis and in Mobile.

18 Q. And in Demopolis you worked with
19 Professional Services Group?

20 A. That's correct.

21 Q. Who in Mobile were you working
22 with when you had Worker's Comp claim?

23 A. Mobile County Water Sewer and Fire

18

1 Protection Authority.

2 Q. Have you ever had an unemployment
3 compensation claim?

4 A. Yes, sir.

5 Q. Who was that with?

6 A. Professional Services Group.

7 Q. Did you get benefits?

8 A. Yes, sir.

9 Q. Why did you leave that employment?

10 A. I was told the project was to be
11 closed down, they didn't need me any more.

12 Q. How long did you draw unemployment
13 compensation?

14 A. About four months -- three or four
15 months, I don't recall for sure.

16 Q. Did you have any jobs between
17 leaving Professional Services Group and being
18 hired by the Auburn Water Board?

19 A. No, sir.

20 Q. Have you given a deposition on any
21 other occasion?

22 A. I have given a deposition in a
23 case where the people I worked for were involved

19

1 in a lawsuit with another firm.

2 Q. What company was that?

3 A. Mobile County Water.

4 Q. What was the nature of that
5 litigation?

6 A. It was a water boundary dispute
7 between them and the Mobile Water Service
8 System.

9 Q. What was the purpose of your
10 deposition?

11 A. I was the manager at the time.
12 I'm not sure why they interviewed me, I had no
13 knowledge of the contracts except as it existed
14 at the time.

15 Q. Have you ever been arrested?

16 A. No, sir.

17 Q. Ever been convicted of any crimes?

18 A. No, sir.

19 Q. Ever been in jail?

20 A. No, sir.

21 Q. You graduated from high school?

22 A. Yes, sir.

23 Q. From where?

20

1 A. Vigor High School in Prichard.

2 Q. Do you have any education above
3 high school?

4 A. Yes, sir.

5 Q. Where is that from, Faulkner?

6 A. Yes, sir.

7 Q. Is that a two-year school?

8 A. Yes, sir.

9 Q. Do you have a degree or
10 certificate from there?

11 A. A degree, yes, sir.

12 Q. What's it in?

13 A. Water and waste water management.

14 Q. When did you receive that?

15 A. I believe it was 1990 -- may have
16 been '89.

17 Q. So you graduated from high school,
18 worked, and then went back to Faulkner?

19 A. That's correct.

20 Q. Do you have any formal education
21 beyond Faulkner?

22 A. I have attended some college
23 classes -- I don't have a college degree.

21

1 Q. What college classes: Where?
 2 A. University of South Alabama.
 3 Q. Were you formally enrolled?
 4 A. Yes, sir.
 5 Q. What years were you at South
 6 Alabama?
 7 A. '73 to '75 I think.
 8 Q. What was your course of study?
 9 A. Civil engineer.
 10 Q. And I think you hold several
 11 certificates?
 12 A. Yes, sir.
 13 Q. What certificates do you hold?
 14 A. I hold a certificate in water
 15 treatment, highest available. Waste water
 16 treatment, highest available -- and a master
 17 plumber's license.
 18 Q. When did you get the -- is it
 19 called a grade four waters operators
 20 certificate?
 21 A. I believe.
 22 Q. When did you receive it?
 23 A. 1991, I think.

22

1 Q. What do you have to do: Is there
 2 a test you take, or just a application? What do
 3 you do to get that certificate?
 4 A. You have to have so many years of
 5 experience depending on the level of the
 6 certificate, and you have to pass the written
 7 exam.
 8 Q. Did you pass the written exam the
 9 first time?
 10 A. Yes, sir.
 11 Q. When did you receive your waste
 12 water certificate?
 13 A. 1973, I believe.
 14 Q. What was the criteria for that?
 15 A. Same.
 16 Q. Had to pass a written exam?
 17 A. Yes, sir, experience and written
 18 exam.
 19 Q. Did you pass the written exam on
 20 the first occasion?
 21 A. Yes, sir.
 22 Q. What's the difference in a water
 23 and a waste water certificate?

23

1 A. Water is essentially a chemical
 2 treatment process and waste water is generally
 3 biological.
 4 Q. And then have you have your master
 5 plumber's license?
 6 A. Yes, sir.
 7 Q. When did you receive that?
 8 A. 1994, I believe.
 9 Q. What's the criteria for receiving
 10 that?
 11 A. Certain experience and exam.
 12 Q. Did you pass the exam the first
 13 time?
 14 A. Yes, sir.
 15 Q. Now are these certificates through
 16 the State?
 17 A. Yes, sir.
 18 Q. Any other certificates that you
 19 hold?
 20 A. No, sir.
 21 Q. Where are you currently employed?
 22 A. Brown and Root -- Kellogg, Brown
 23 and Root.

24

1 Q. Where is their home office?
 2 A. Houston, Texas, I believe, but
 3 there was some discussion about it moving to
 4 Dubai, and I'm not sure if it has or not.
 5 Q. Where would your personnel file
 6 be?
 7 A. I would assume it's in Houston.
 8 Q. 601 Jefferson Street, Houston,
 9 Texas -- does that sound right?
 10 A. I don't really know the address.
 11 Q. Did you go there to apply for that
 12 position?
 13 A. I applied over the Internet.
 14 Q. How did you hear about that
 15 position?
 16 A. A friend that had worked for them
 17 mentioned it to me that he had just gotten back
 18 from Afghanistan, I believe it was.
 19 Q. Who is your friend?
 20 A. Well, I say a friend -- he's a man
 21 that I had coffee with from time to time at one
 22 of the local restaurants and I really only know
 23 him as Mr. Brown.

25

1 Q. Do you remember what day you
2 applied for the position with Kellogg, Brown and
3 Root?

4 A. No, sir.

5 Q. Do you still have a copy of your
6 application?

7 A. It was filed over the Internet. I
8 don't believe I had a written application until
9 I went to Houston.

10 Q. Did you keep it in a folder, or
11 save it, or anything like that?

12 A. No, sir.

13 Q. When you applied for that
14 position, did you know that a lot of work was
15 overseas?

16 A. Yes, sir.

17 Q. Did you specifically apply to work
18 at one of the overseas projects?

19 A. Yes, sir.

20 Q. Why did you apply to work
21 overseas?

22 A. Well, I was in an unattainable
23 position where I was and I had to get away from

26

1 it.

2 Q. Well, did you make any application
3 for any positions or jobs stateside?

4 A. No, sir, I didn't.

5 Q. So the only place that you applied
6 was Kellogg, Brown and Root?

7 A. That was the first place I
8 applied, yes, sir.

9 Q. Did you apply anywhere after that?

10 A. No, sir.

11 Q. And that's the only position
12 you've held since leaving the water board?

13 A. That's correct.

14 Q. What day did you start working
15 with -- what's your official first day of work
16 with Kellogg, Brown and Root?

17 A. I believe it's July the 18th,
18 2006.

19 Q. Where was your first day of work?

20 A. In Houston.

21 Q. What day did you arrive in Houston
22 to begin working on July 18th?

23 A. I don't recall.

27

1 Q. Did you fly or drive?

2 A. Flew.

3 Q. What airline?

4 A. Continental.

5 Q. Out of where?

6 A. Atlanta.

7 Q. Did you pay cash or charge your
8 ticket?

9 A. Ticket was purchased for me by the
10 company.

11 Q. Did you have any orientation
12 session before you began working on July 18th?

13 A. Yes, sir.

14 Q. When did you have an orientation
15 session?

16 A. I think there were two days of
17 orientation before the 18th, I believe that's
18 correct.

19 Q. Now if I remember -- and you
20 correct me -- you took a couple of weeks of
21 vacation from the City?

22 A. I took one week.

23 Q. Where did you spend that week?

28

1 A. Houston.

2 Q. Did you have an interview that
3 week, or were you hired over the Internet?

4 A. I had an interview.

5 Q. Did you return to Alabama at all?

6 A. No, sir.

7 Q. So when you left Alabama on your
8 vacation you anticipated or assumed you were
9 going to get that job with Kellogg, Brown and
10 Root?

11 A. I went there to apply for the
12 job -- I didn't assume I was going to get it.

13 Q. But you just remained in Houston
14 during that week?

15 A. When I got the job I remained,
16 yes, sir.

17 Q. How long did you stay in Houston
18 before you left the country?

19 A. I believe I left the 19th, may
20 have been the 20th, I'm not certain -- I believe
21 it was the 19th.

22 Q. So you, I assume, flew out of
23 Houston?

29

1 A. Yes.
 2 Q. To where?
 3 A. To Baghdad eventually.
 4 Q. Did you fly commercial or company
 5 plane?
 6 A. It was all commercial. The last
 7 leg was chartered.
 8 Q. What airline did you fly
 9 commercially?
 10 A. Continental.
 11 Q. Where did you get the chartered
 12 flight?
 13 A. In Dubai.
 14 Q. And flew from there to Baghdad?
 15 A. Yes, sir.
 16 Q. Well when you left to go to
 17 Houston for the job interview, did you pack up
 18 and have all of your stuff ready in case you
 19 left immediately to go to Iraq?
 20 A. I had a bag packed. I was on
 21 vacation. I did have clothing with me.
 22 Q. How were you advised about the job
 23 interview: Somebody call you, did you call

30

1 somebody over the Internet?
 2 A. Part of it was done -- most of it
 3 was done over the Internet. There was some
 4 telephone calls also.
 5 Q. What is your job position?
 6 A. I am a waste water operator.
 7 Q. So is it fair to say that there
 8 was never a time that you were unemployed
 9 between the Auburn Water Board and Kellogg,
 10 Brown and Root?
 11 A. I went from one job to the next,
 12 that's true.
 13 Q. As a waste water operator, are you
 14 there in Baghdad?
 15 A. I have spent a lot of time in
 16 Baghdad and I've gone to other locations also.
 17 Q. Is what I would call your office,
 18 is it primarily in Baghdad?
 19 A. No, sir.
 20 Q. Where is it?
 21 A. There isn't.
 22 Q. Do you have an office?
 23 A. No, sir, there is no office.

31

1 Q. Other than Baghdad, where else do
 2 you operate as a waste water operator? What
 3 other cities?
 4 A. Well, I wouldn't say cities --
 5 forward operating bases -- and I'm not really
 6 sure that -- I'm afraid to give any details for
 7 it, but forward operating bases.
 8 Q. What are your duties as a waste
 9 water operator?
 10 A. First of all, I spend a lot of
 11 time producing drinking water -- that's been
 12 part of my duty and at times treating waste
 13 water.
 14 Q. Are your duties different with
 15 Kellogg, Brown and Root than they were with the
 16 City of Auburn?
 17 A. They are different in particulars,
 18 they are of the same nature: Water production,
 19 but we use different methods.
 20 Q. As the chief operator with Auburn,
 21 were you involved with waste water treatment?
 22 A. No, sir.
 23 Q. Yours was drinking water?

32

1 A. That's correct.
 2 Q. Whereas with Kellogg, Brown and
 3 Root you are involved with waste water?
 4 A. That's correct.
 5 Q. And drinking water, both?
 6 A. That's correct.
 7 Q. Do you have a supervisor there or
 8 are you the supervisor?
 9 A. I am not the supervisor. I have a
 10 number of supervisors depending on what location
 11 I'm at.
 12 Q. How long do you stay gone at a
 13 time?
 14 A. Well, I'm eligible for an R and R
 15 every 120 days -- I don't always take an R and R
 16 120 days.
 17 Q. So how many times have you
 18 returned to the states since July 19th of 2006?
 19 A. This is my first time.
 20 Q. When you are eligible for an R and
 21 R -- what period of time are you eligible for,
 22 how long?
 23 A. 10 days -- 10 days of paid leave.

33

1 Q. When you did not return stateside
2 on the other occasions when you were eligible,
3 did you still get 10 days off, 10 days paid
4 leave and go somewhere else, or do you get paid
5 overtime, or how does that work?

6 A. I took 10 days and went somewhere
7 else.

8 Q. So you have always taken your 10
9 days?

10 A. I have taken 10 days, not on 120
11 days interval, but I have taken 10 days on two
12 other occasions.

13 Q. Where did you go on those
14 occasions?

15 A. Australia.

16 Q. Both times?

17 A. Yes, sir.

18 Q. Do you have family and friends in
19 Australia?

20 A. Friends.

21 Q. I'm going to get into the job in
22 Iraq a little bit later. Let me be clear
23 though -- I understand: You knew when you

34

1 applied for that job that it was in Iraq?

2 A. I knew that the job was either
3 going to be -- it was going to be somewhere in
4 the middle east.

5 Q. And that's a job that you
6 voluntarily agreed to take?

7 A. Yes, sir. I took the -- no one
8 forced me to take the job.

9 Q. I mean, you knew it was not a
10 stateside job, it was going to be somewhere in
11 the middle east?

12 A. That's correct.

13 Q. Other than Iraq and Afghanistan,
14 does Kellogg, Brown and Root have any other
15 projects going on in the middle east?

16 A. Yes, sir.

17 Q. That you would be eligible to work
18 for?

19 A. Yes, sir.

20 Q. Where are they?

21 A. Kuwait. There are others, I don't
22 know specifics.

23 Q. How did you wind up in Iraq? Did

35

1 you volunteer for Iraq?

2 A. I was assigned.

3 Q. So when you were hired on they
4 could assign you where you were needed, but you
5 knew it would be in the middle east?

6 A. That's correct.

7 Q. I took your application and I made
8 a list of the places that you listed that you
9 had worked, and I want to go through them with
10 you and ask you some specifics about them. The
11 first place that you have listed was Mobile
12 Water System where you were an operator.

13 A. That's correct.

14 Q. Approximately what years was that?

15 A. 1970 to 1973 or '74 I believe,
16 sir.

17 Q. And you were an operator there?

18 A. Yes, sir.

19 Q. Was there any similarity between
20 that job with the Mobile Water System and your
21 position with the Auburn Water Board?

22 A. They were both water-related jobs.

23 Q. Did you have any supervisory

36

1 authority at the Mobile Water System?

2 A. I supervised only my shift.

3 Q. How many would have been on your
4 shift?

5 A. Just one other man.

6 Q. What would that person's position
7 have been that you supervised?

8 A. He would have been an operator's
9 assistant or an operator himself, trainee
10 possibly -- they are different people from time
11 to time.

12 Q. Would that be somebody that's
13 permanently assigned to your shift, or if
14 somebody needed training they may work with you
15 on job training for a period of time and then
16 move on to something else?

17 A. That's possible.

18 Q. Did you generally work that shift
19 by yourself as an operator?

20 A. No, sir.

21 Q. You almost always had somebody
22 with you?

23 A. Yes, sir.

37

1 Q. And you would supervise that one
2 person?
3 A. Yes, sir.
4 Q. Well, when you were first hired,
5 did somebody supervise you that you worked with?
6 A. Yes, sir.
7 Q. How long would you have worked
8 with somebody?
9 A. Three or four months.
10 Q. Now, did you do any budgeting?
11 Have any budgeting responsibilities for the
12 Mobile Water System?
13 A. No, sir.
14 Q. Did you have any administrative
15 responsibilities?
16 A. No, sir.
17 Q. Did you do any scheduling?
18 A. No, sir.
19 Q. Why did you leave that position?
20 A. I was attending college.
21 Q. You left there to go to school
22 full-time?
23 A. Yes, sir.

38

1 Q. And then your next position was
2 with the, according to this -- and you correct
3 me if I'm wrong -- the City of Saraland.
4 A. I believe I worked for the City of
5 Prichard before that.
6 Q. Okay. What did you do for the
7 City of Prichard?
8 A. Shift operator.
9 Q. Is that similar to what you did at
10 Mobile?
11 A. Yes, sir.
12 Q. Any significant difference in the
13 responsibilities?
14 A. No, sir.
15 Q. What years were you at Prichard?
16 A. 1974 to 1975, I believe and maybe
17 '76, I'm not sure.
18 Q. Did you supervise anybody at
19 Prichard?
20 A. No, sir.
21 Q. Did you have any budget
22 responsibilities at Prichard?
23 A. No, sir.

39

1 Q. Did you have any administrative
2 responsibilities at Prichard?
3 A. No, sir.
4 Q. Were you in charge of the
5 scheduling at Prichard?
6 A. No, sir.
7 Q. And I assume you didn't have any
8 authority to discipline employees?
9 A. No, sir.
10 Q. Why did you leave Prichard?
11 A. Got an offer in Saraland.
12 Q. How large a system was the Mobile
13 Water System in '70 and '74 compared to the
14 Auburn Water Board System when you worked at
15 Auburn?
16 A. I believe the Mobile Water Service
17 water was probably making about thirty million
18 gallons a day. I think when I left Auburn it
19 was problem making eight, average.
20 Q. Eight?
21 A. Six to eight.
22 Q. How many employees total would
23 there have been in Mobile?

40

1 A. Don't know.
2 Q. How large was the Prichard system?
3 A. I don't really have a lot of
4 information on it.
5 Q. Just generally what years did you
6 work with Saraland?
7 A. '76 to 1979.
8 Q. Why did you leave there?
9 A. I got a better job offer at Lake
10 Forest Utilities.
11 Q. What was your position at
12 Saraland?
13 A. I was the sewer manager, or sewer
14 superintendent actually.
15 Q. That was a waste water?
16 A. Yes, sir, that was waste water.
17 Q. Did you have any supervisory
18 responsibilities?
19 A. Yes, sir.
20 Q. How many people?
21 A. 224.
22 Q. Who would you have reported to?
23 A. Mary Potter was the City Clerk at

41

1 the time.

2 Q. Was there a parallel or a
3 comparable position on the water side?

4 A. The water board was a separate
5 entity from myself.

6 Q. You worked actually for the City
7 of Saraland?

8 A. That's correct.

9 Q. And administratively reported to
10 the clerk?

11 A. That's correct.

12 Q. Were you responsible for budgeting
13 of the waste water department?

14 A. Yes, sir.

15 Q. And administratively, what
16 responsibilities did you have as a sewer
17 superintendent?

18 A. Well, reporting -- reporting not
19 only to the city administration but to state and
20 federal agencies.

21 Q. Were you responsible for
22 scheduling employees' work?

23 A. Yes, sir.

42

1 Q. Could you discipline employees or
2 could you only recommend that, too -- how did
3 that work?

4 A. I can only recommend that.

5 Q. And then it would go up to the
6 town clerk or the city clerk?

7 A. Essentially.

8 Q. Who else was in the chain of
9 command?

10 A. The mayor.

11 Q. And that was two to four
12 employees, and that was on the waste water sewer
13 side?

14 A. Correct.

15 Q. And then at Lake Forest Utility,
16 which I have a note on it's in Daphne.

17 A. That's correct. It's no longer --
18 it was a private company then.

19 Q. Did you ever work for it when it
20 was a public company?

21 A. No, sir.

22 Q. Was it sold out?

23 A. Yes, sir.

43

1 Q. And sold to what, Daphne?

2 A. Yes, sir.

3 Q. So was your employer Lake Forest
4 Utility?

5 A. That's correct.

6 Q. What was its business address?

7 A. I don't recall.

8 Q. And your position was?

9 A. I was the water and sewer
10 superintendent.

11 Q. Who did you report to?

12 A. The project manager.

13 Q. Do you remember his name?

14 A. They changed from time to time.

15 Cleve Henderson was the last one that I worked
16 for.

17 Q. When they were sold to Daphne did
18 Cleve Henderson become a city employee?

19 A. No, sir.

20 Q. He went somewhere else?

21 A. Yes, sir, that's correct.

22 Q. Do you know where he went?

23 A. No, sir.

44

1 Q. Did you have supervisory authority
2 as the water and sewer superintendent with Lake
3 Forest Utility?

4 A. Yes, sir.

5 Q. How many people?

6 A. Three waste water employees and
7 four water employees.

8 Q. And those would have been private
9 enterprise employees?

10 A. That's correct.

11 Q. Terminable at will?

12 A. Correct.

13 Q. Were you responsible for budgeting
14 or was that done above you, or was there a
15 budget necessary for your department?

16 A. I did part of the budgeting and
17 part of it was done above me, so I had
18 restrictions.

19 Q. What was your input into the
20 budget?

21 A. I'm not sure.

22 Q. Municipalities operate and water
23 boards operate off of a budget that's approved

45

1 each year.

2 A. Correct.

3 Q. Did Lake Forest Utility have a
4 structured budget like that?

5 A. We have -- we had a budget, yes,
6 sir.

7 Q. Did you get in trouble if you went
8 over?

9 A. Yes, sir.

10 Q. And did you have to report to
11 people about it?

12 A. Yes, sir.

13 Q. Would you have to sit down with
14 the project manager and discuss what your
15 department would do each year, or would the
16 project manager know that?

17 A. I would have to sit down with the
18 project manager.

19 Q. Were there other departments or
20 functions of Lake Forest Utility other than just
21 water, waste water?

22 A. Yes, sir.

23 Q. What else did they have?

46

1 A. Land development, home
2 construction.

3 Q. Did the person that you report to
4 then report to somebody that was involved in the
5 bigger scheme of things?

6 A. The project manager was over
7 everything.

8 Q. He was over all of it?

9 A. Yes, sir.

10 Q. Was he there on site?

11 A. Yes, sir.

12 Q. Did you have any administrative
13 responsibilities with Lake Forest Utility?

14 A. Yes, sir.

15 Q. What were they?

16 A. Reported to state and federal
17 agencies, particularly the Public Service
18 Commission -- rate structures for the Public
19 Service Commission.

20 Q. Did you have any scheduling
21 responsibilities?

22 A. Yes, sir.

23 Q. How about disciplinary actions?

47

1 A. Yes, sir.

2 Q. Could you fire somebody if you
3 needed to?

4 A. Yes, sir.

5 Q. But y'all didn't have to worry
6 about due process hearings and that sort of
7 stuff?

8 A. We did, yes, sir.

9 Q. You did?

10 A. Yes, sir.

11 Q. Was it a union?

12 A. No, sir, there wasn't a union, but
13 there was complaints.

14 Q. If you wanted to fire somebody
15 though, wouldn't those private enterprise
16 employees be at will?

17 A. I'm not sure of the definition of
18 "at will".

19 Q. Could you fire them for any
20 reason?

21 A. No, sir.

22 Q. You had to have a forecalled
23 reason?

48

1 A. That's right.

2 Q. So would you have to get clearance
3 on taking any disciplinary action, or could you
4 do it on your own?

5 A. Depending on the circumstances.

6 Q. Did you ever fire anybody?

7 A. Yes, sir.

8 Q. How many people did you fire?

9 A. Two.

10 Q. Did they have hearings on it, or
11 did you just run them off the project?

12 MR. COOKS: Object to the
13 form.

14 A. They didn't have formal hearings.

15 Q. (Mr. Morgan) And then I have that
16 your next employment was Mobile County Water
17 Sewer and Fire?

18 A. That's correct.

19 Q. What was your position with it?

20 A. General manager.

21 Q. Now, is that a legal entity that's
22 similar to the Auburn Water Board?

23 A. Yes, sir.

49

1 Q. A public corporation?
 2 A. That's correct.
 3 Q. What did you do for it?
 4 A. Well, I was manager for the entire
 5 operation.
 6 Q. Water and waste water?
 7 A. We didn't actually have waste
 8 water, but yes, sir.
 9 Q. Water, sewer and fire?
 10 A. Correct. We had administrative
 11 sewer duties only.
 12 Q. Who handled the sewer?
 13 A. There was no actual sewer except
 14 what's provided by the City of Mobile.
 15 Q. What was the overlap between the
 16 Mobile County Water Sewer and the City of Mobile
 17 or Mobile Water Board? I mean, is this outside
 18 the city limits of Mobile that you operated?
 19 A. It's a separate service area
 20 outside the city limits.
 21 Q. How large a service area was it?
 22 A. I don't know the actual acreage.
 23 Q. Is it still in existence?

50

1 A. I believe so.
 2 Q. Do you know whether or not it has
 3 the same general service area or whether it's
 4 increased or decreased?
 5 A. I don't know.
 6 Q. Do you know who's over it now?
 7 A. No, I don't.
 8 Q. How many employees were there with
 9 the Mobile County Water Sewer and Fire?
 10 A. I believe there were 12 water
 11 employees, maybe five office staff, five fire
 12 staff and approximately 60 volunteer fire
 13 people.
 14 Q. How big a system was that -- I
 15 mean, the water system? How many gallons of
 16 water did they generate or produce?
 17 A. I don't really recall. It's a
 18 ground water system rather than a surface water
 19 system -- I don't really recall -- and separate
 20 wells.
 21 Q. You are going to have to educate
 22 me: What's the difference in the ground water
 23 and the surface water system?

51

1 A. Surface water system requires
 2 higher degree of treatment, normally. Most
 3 ground water doesn't require a lot of
 4 preparation before it's safe to drink.
 5 Q. And this was a ground water
 6 system?
 7 A. That's correct.
 8 Q. Now you worked at the water plant
 9 here for the Auburn Water Board?
 10 A. That's correct.
 11 Q. Did they have a similar water
 12 plant at the Mobile County Water, Sewer and
 13 Fire?
 14 A. No, sir.
 15 Q. How many people did you actually
 16 supervise at the Mobile County Water, Sewer and
 17 Fire?
 18 A. At least one in the office and at
 19 least two in the field -- in the water field.
 20 And two in the fire department that I directly
 21 supervised.
 22 Q. What was your experience with
 23 fire?

52

1 A. Well, actually I learned about
 2 fire after I got there. That's why I had a fire
 3 chief and fire dispatchers, and the only thing I
 4 had to do is to make sure that they were doing
 5 their job.
 6 Q. So in terms of water you had two
 7 field employees that you would directly
 8 supervise?
 9 A. I had a field superintendent and a
 10 leader man in the field that I could go to.
 11 Q. And that's who you supervised
 12 directly in terms of water?
 13 A. Directly, yes, sir.
 14 Q. Who did you report to?
 15 A. The board of directors.
 16 Q. How was the board made up?
 17 A. It's a three-member board.
 18 Q. Are they appointed by the local --
 19 A. Appointed by the county.
 20 Q. Did the board hire you?
 21 A. That's correct.
 22 Q. Did you have any budget
 23 responsibilities for the Mobile County Water,

53

1 Sewer and Fire Department?

2 A. Yes, I did.

3 Q. What was your budget area, the
4 water or the whole thing?

5 A. I had to prepare the entire annual
6 budget.

7 Q. You did the entire budget and then
8 you would submit it to the board of directors
9 for approval?

10 A. That's correct.

11 Q. How much money did that system
12 have that you would budget, what was the amount
13 of money?

14 A. Our normal operating cost was
15 around a million a year as I recall.

16 Q. That was a figure you would use in
17 preparing the budget, a million dollars?

18 A. We would generate revenue
19 estimates to prepare the budget.

20 Q. What amount, would that be close
21 to the million dollars?

22 A. Right.

23 Q. What administrative

54

1 responsibilities did you have with the Mobile
2 County Water, Sewer and Fire?

3 A. Reported to the county commission,
4 to the board, to State and Federal agencies.

5 Q. I apologize if I have asked this,
6 but that system did not have waste water?

7 A. It had a waste water agreement
8 with the City of Mobile. It didn't have waste
9 water facilities or operators.

10 Q. So y'all relied on the City for
11 waste water?

12 A. That's correct.

13 Q. And the water system was ground
14 water?

15 A. That's correct.

16 Q. And the fire department, you
17 relied on the fire chief for that?

18 A. Correct.

19 Q. Now was he a full-time employee,
20 because you said there were 60 volunteer
21 firemen, was there a full-time fire chief?

22 A. That's correct.

23 Q. So the fire chief, I guess,

55

1 administratively, even though he probably knew
2 more about fire, he would report to you
3 administratively?

4 A. Yes, sir.

5 Q. Was there somebody over the water
6 that would report to you administratively, or
7 were you in charge of the water directly?

8 A. Well, the field superintendent and
9 the office manager both reported to me directly.

10 Q. Were you responsible for the
11 scheduling of those two employees on the water
12 side?

13 A. I was responsible for the
14 scheduling of all of the employees.

15 Q. Did you sort of defer to the fire
16 chief on the fire side?

17 A. Generally, yes, sir.

18 Q. And how about disciplinary
19 reprimands, terminations -- did you have that
20 responsibility, or did you make recommendations?

21 A. I had some responsibility and did
22 some recommendations.

23 Q. Were those employees for the

56

1 Mobile County Water, did they fall under a
2 personnel plan or policy where they were
3 entitled to a due process hearing similar to a
4 city?

5 A. They were entitled to due process.

6 Q. Did the Mobile County, Sewer and
7 Fire, did you rely on the Mobile City personnel
8 or Mobile County personnel?

9 A. No, sir.

10 Q. You had your own personnel system
11 there?

12 A. Essentially, correct.

13 Q. Was there an HR department or
14 personnel department?

15 A. I actually was most of the HR --
16 me along with an office employee.

17 Q. My notes say that you left there
18 because you had a nonwork-related injury?

19 A. That's correct.

20 Q. What happened with that?

21 A. Well, I had some problems with one
22 of my feet and I had to have surgery and ended
23 up being unable to walk for an extended period

57

1 of time.

2 Q. Did they ask you to resign, or did
3 you voluntarily resign?

4 A. I voluntarily resigned.

5 Q. Then the next place that I have
6 that you worked was the City of Jackson.

7 A. That's correct.

8 Q. How long were you unemployed
9 between leaving Mobile County Water, Sewer and
10 Fire and going with the City of Jackson?

11 A. About eight months as I recall.

12 Q. Did you get unemployment
13 compensation?

14 A. No, sir.

15 Q. Did you even apply for it?

16 A. No, sir.

17 Q. And your position with the City of
18 Jackson was plant superintendent?

19 A. Yes, sir.

20 Q. And that was, I guess, directly --
21 you were an employee of the City of Jackson?

22 A. That's correct.

23 Q. Did it have a separate water

58

1 board?

2 A. It was a water board, yes, sir.

3 Q. Which were you employed by, the
4 City or the water board?

5 A. I was actually employed by the
6 water board but the water board was very closely
7 bonded with the City, so the administrative
8 duties for the board were normally handled by
9 the City.

10 Q. But your employment was with the
11 water board?

12 A. That's correct.

13 Q. What would it be called, the
14 Prichard Water Board?

15 A. Jackson.

16 Q. Jackson, I'm sorry. Jackson Water
17 Board?

18 A. I believe that's correct.

19 Q. Did the HR department or personnel
20 department for the City also handle the
21 personnel for the water board, similar to
22 Auburn?

23 A. That's correct.

59

1 Q. How many employees were at the
2 water board?

3 A. I don't know. There were field
4 employees as well as plant employees.

5 Q. You were the plant
6 superintendent?

7 A. That's correct.

8 Q. How many employees were there at
9 the plant?

10 A. Four.

11 Q. How many did you supervise?

12 A. Four.

13 Q. Everybody that was there?

14 A. That's correct.

15 Q. Generally what were your duties at
16 the plant superintendent?

17 A. To ensure that the plant was
18 producing water according to standards.

19 Q. And that was a water job?

20 A. That's correct.

21 Q. How many gallons of water did they
22 generate or produce?

23 A. About two million a day.

60

1 Q. And is that ground or surface
2 water?

3 A. Surface water.

4 Q. So you had to have a plant?

5 A. That's correct.

6 Q. Who did you report to?

7 A. David Dolbear.

8 Q. What was his position?

9 A. He was the water superintendent
10 for the City.

11 Q. Was he a City employee or board
12 employee?

13 A. Board employee.

14 Q. Who would he report to, the board?

15 A. To the board of directors.

16 Q. And you would supervise the other
17 employees at the plant?

18 A. That's correct.

19 Q. What responsibility did you have
20 for the water board's budget?

21 A. The budgeting aspects of the water
22 production.

23 Q. Your department side of it?

61

1 A. That's correct.

2 Q. What was the total budget for the
3 water board?

4 A. I don't recall.

5 Q. What was your budget?

6 A. I really don't recall.

7 Q. What administrative
8 responsibilities did you have?

9 A. Dealing with the state and federal
10 agencies.

11 Q. And then were you responsible for
12 scheduling of the plant, the employees at the
13 plant?

14 A. Yes, sir.

15 Q. What disciplinary employee
16 reprimands, terminations -- what responsibility
17 did you have in that area?

18 A. I had limited responsibility,
19 reprimands and recommendations.

20 Q. Why did you leave there?

21 A. It was actually taken over by a
22 private company: Professional Services Group
23 and I stayed with Professional Services Group

62

1 after they took over.

2 Q. So Professional Services Group is
3 just a successor to the Jackson Water Board?

4 A. That's correct.

5 Q. And you were the project manager
6 for Professional Services Group?

7 A. Not at City of Jackson. They
8 relocated me to Demopolis, Alabama and I was the
9 project manager there.

10 Q. Did you ever work in Jackson for
11 Professional Services Group?

12 A. For a limited period of time.

13 Q. Did your job stay basically the
14 same as it had with the water board?

15 A. That's correct.

16 Q. And they moved you to Demopolis?

17 A. Right.

18 Q. What did you do in Demopolis?

19 A. I was the manager of the entire
20 project.

21 Q. What was the project?

22 A. Water and waste water treatment
23 for the City.

63

1 Q. How many employees did you
2 supervise or you were responsible for in
3 Demopolis?

4 A. I believe there were 16 field
5 employees and three office employees.

6 Q. And you would have been
7 responsible for -- all of them would have
8 reported to you?

9 A. Yes, sir.

10 Q. How many on the water side did you
11 supervise in Demopolis?

12 A. I believe there were 10 field
13 employees in the water side and six in waste
14 water.

15 Q. Was there a water treatment plant
16 there similar to what's at Auburn?

17 A. Well, there were wells scattered
18 around.

19 Q. Was that ground water?

20 A. Ground water.

21 Q. So you didn't have to have
22 treatment plants like you did at Auburn?

23 A. Not a water treatment plant, no,

64

1 sir.

2 Q. What kind of treatment plant did
3 you have to have?

4 A. Base water treatment plants.

5 Q. But in terms of water you didn't
6 have to have a water treatment plant?

7 A. We had treatment facilities, but
8 not a surface water type plant, no, sir.

9 Q. How much water was produced,
10 generated at the Demopolis plant?

11 A. I really don't recall.

12 Q. How about the budget? Did you
13 have any budget responsibilities with
14 Professional Services Group?

15 A. Yes, sir.

16 Q. How much money was allocated to
17 the water side of your budget?

18 A. I don't know that it was split up
19 that way because Professional Services Group
20 just didn't do it that way. They grouped it by
21 utilities and chemicals and whatever.

22 Q. Well, in terms of the project that
23 you had in Demopolis, what was the total amount

65

1 of the budget?

2 A. I believe it was about one point
3 two million, but that's -- I'm not certain of
4 that.

5 Q. Did those budgets -- the budget
6 that was submitted -- would they have to be
7 approved by the City?

8 A. They would have to be approved by
9 the City and by the home office, both.

10 Q. The City, I guess, had a contract
11 with Professional Services Group to provide
12 water and waste water?

13 A. That's correct.

14 Q. And so I guess the amount that
15 would be allocated for those projects from
16 Professional Services Group is what you would
17 get from the City?

18 A. Basically, that's correct.

19 Q. And then the Professional Services
20 Group would do a budget for the whole -- just
21 whatever your project was -- they didn't break
22 it down into water and waste water?

23 A. That's correct.

66

1 Q. But the amount of money they had
2 to play with would have been what was contracted
3 with the City?

4 A. That's correct.

5 Q. Did y'all publish reports or
6 annual reports or information for the City
7 showing how much water was generated or
8 produced, or how much waste water was handled
9 and all of that?

10 A. Yes, sir.

11 Q. And those would have been
12 submitted to the City?

13 A. Yes, sir.

14 Q. How about for the Jackson Water
15 Board, were similar reports generated for the
16 City or for the water board, do you know?

17 A. I don't recall. I'm sure that
18 there was a report given to the board, but I
19 don't recall the substance of the report.

20 Q. And administratively, what
21 responsibilities did you have with the
22 Professional Services Group?

23 A. Interfacing with the local

67

1 government the City and County, and reporting to
2 state and federal agencies.

3 Q. Did you have a contact at
4 Demopolis that you dealt with?

5 A. The Mayor -- I normally dealt with
6 the Mayor.

7 Q. Who was the Mayor when you were
8 there?

9 A. Austin Caldwell.

10 Q. Were you responsible for the
11 scheduling of the employees on both the water
12 side and the waste water side?

13 A. Yes, sir.

14 Q. And what about disciplinary, did
15 you make recommendations to the --

16 A. I had a set of procedures that the
17 company followed. Some of them were done in my
18 office and the others were done in Houston.

19 Q. Professional Services Group's home
20 office is in Houston as well?

21 A. That's correct.

22 Q. Now you were an employee of
23 Professional Services Group?

68

1 A. Correct.

2 Q. What about the folks under you?

3 Did they work for the City or did they work for
4 the Professional Services Group?

5 A. Professional Services Group.

6 Q. So y'all had the whole thing?

7 A. That's correct.

8 Q. There weren't any city employees
9 that you just managed them -- I mean, y'all did
10 the management and the operating?

11 A. Generally true, we had part-time
12 people that worked also with the City from time
13 to time, not regular employees.

14 Q. But in terms of your regular
15 employees, they were all Professional Services
16 Group employees?

17 A. That's correct.

18 Q. Why did you leave it?

19 A. That's the one where I was told
20 the project was closing and they did not
21 leave --

22 Q. Did they in fact close the
23 project?

69

1 A. I assume they did, I don't know.
 2 Q. Why were they closing the project,
 3 was the City taking it in-house?
 4 A. It's my understanding the City was
 5 not happy with the level of service they were
 6 getting from Professional Services Group for the
 7 money they were paying.
 8 Q. So did they bid it to somebody
 9 else?
 10 A. I don't know.
 11 Q. Do you know if that project --
 12 would the City have gotten that competitive bid,
 13 or is that something the City would go to with
 14 Professional Services?
 15 A. I don't know.
 16 Q. But you were not responsible for
 17 that?
 18 A. No, sir.
 19 Q. But your understanding was that
 20 the City was not happy with the level of
 21 services that you are getting for the money?
 22 A. That's correct.
 23 Q. And so they were terminating their

70

1 relationship with Professional Services Group?
 2 A. Right.
 3 Q. How much money was the City paying
 4 each year? Do you know?
 5 A. I don't recall the exact amount.
 6 Q. Is that when you received
 7 unemployment compensation?
 8 A. That's correct.
 9 Q. At any of these jobs that we've
 10 talked about, did you hold any position where
 11 you dealt directly or responsible for dealing
 12 with the consumer or a customer?
 13 A. Absolutely.
 14 Q. Which ones?
 15 A. City of Saraland.
 16 Q. Okay.
 17 A. Lake Forest Utilities.
 18 Q. Okay?
 19 A. Mobile County Water, and
 20 Jackson -- City of Jackson, and Professional
 21 Services Group.
 22 Q. What was the population area that
 23 you would have dealt with -- that y'all serviced

71

1 with Professional Services Group?
 2 A. Well, it was the entire city and
 3 some areas outside the city -- I don't know the
 4 exact area.
 5 Q. How about the City of Jackson?
 6 What geographical area did you service, just the
 7 city?
 8 A. The city, Salitpa -- a couple of
 9 other little small areas that I don't think were
 10 actually incorporated, but they are named.
 11 Q. Well, were they within the police
 12 jurisdiction of the City of Jackson?
 13 A. I don't believe that all of them
 14 were.
 15 Q. What about Mobile County, you said
 16 that was a geographical area?
 17 A. Right.
 18 Q. But you don't remember how large
 19 that geographical area was?
 20 A. I don't recall.
 21 Q. You don't remember what the
 22 population was?
 23 A. I believe we have between six and

72

1 seven thousand customers.
 2 Q. Where geographically? Is it north
 3 of Mobile City, east?
 4 A. Generally south.
 5 Q. West?
 6 A. South and southwest -- west and
 7 southwest.
 8 Q. Bayou LaBatre, that area?
 9 A. North of Bayou LaBatre.
 10 Q. South of I-10 -- south and
 11 southwest of I-10 from Mobile?
 12 A. Right, southwest.
 13 Q. But north of the Bayou LaBatre?
 14 A. Yes, sir.
 15 Q. Did it go all the way to the
 16 Mississippi line?
 17 A. No, sir -- well, we didn't have
 18 water that far out.
 19 Q. And then Lake Forest, was that the
 20 Daphne City area?
 21 A. Not the entire Daphne City area.
 22 It was not incorporated at the time.
 23 Q. How many folks did y'all service

73

1 at Lake Forest?

2 A. I believe there were four thousand
3 residences.

4 Q. Do you remember how many you
5 serviced in Mobile County?

6 A. I think I said between six and
7 seven thousand.

8 Q. City of Jackson, do you remember
9 how many there were?

10 A. I don't.

11 Q. And you don't remember how many
12 there were in Demopolis?

13 A. No, sir.

14 Q. And then the City of Saraland.
15 Did you have the whole City of Saraland?

16 A. Yes, sir.

17 Q. How many folks would that be?

18 A. Maybe five thousand -- I'm not
19 sure on that one.

20 MR. MORGAN: I don't know how
21 long we have been going. I'm about to change
22 gears, y'all want to take a quick break?

23 MR. COOKS: Yes.

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1 11:19 AM

2 (Short break.)

3 11:26 AM

4 Q. (Mr. Morgan) Mr. Lacey, I sent
5 you a deposition notice and I just want to be
6 sure I have these documents that I requested. I
7 received yesterday your tax returns for 2005 and
8 2006 -- you filed those Alabama State and
9 Federal taxes those two years?

10 A. Yes, sir.

11 Q. They didn't have the W-2 forms
12 with them. Do you have your W-2s?

13 A. I'll have to check, because I did
14 it on-line and I don't recall. I'll have to
15 check.

16 Q. And then I asked for any receipts,
17 canceled checks, or other documents of any type
18 of nature evidence and income earned since July
19 1, 2006. Do you get a pay stub when you get a
20 check, or do they do a direct deposit?

21 A. They do a direct deposit.

22 Q. Do they give some evidence that
23 the money has been deposited?

75

1 A. I usually -- eventually get a pay
2 stub, but not on a regular basis. It kind of
3 follows me around wherever I go.

4 Q. I assume your banking account is
5 here in Alabama?

6 A. Yes, sir.

7 Q. Am I right in that?

8 A. Yes, sir.

9 Q. Does your pay stub come to your
10 address in Alabama, or does it follow you
11 wherever you are?

12 A. Wherever I am.

13 Q. What do you do with your pay
14 stubs?

15 A. I believe that most of them that I
16 have, and I didn't get all of them -- most of
17 them I have are probably still in Iraq
18 somewhere.

19 Q. So you would have at least some,
20 if not most of your pay stubs from up until
21 today? I mean, it would have some that you
22 received in 2007?

23 A. I believe I have some, yes, sir.

76

1 Q. Are you paid weekly, bi-weekly,
2 monthly?

3 A. Monthly.

4 Q. So you would have one pay stub for
5 each month that you have been with -- or at
6 least you should have received --

7 A. I should have received.

8 Q. And you have some?

9 A. Yes, sir.

10 Q. When do you return?

11 A. August the 7th, I believe I have
12 to be back.

13 Q. Is there anything else that will
14 show what monies you've been paid by Kellogg,
15 Brown and Root other than this pay stub and your
16 W-2 form?

17 A. I don't believe so -- the income
18 tax return.

19 Q. Yes, okay. Do you have a -- I
20 guess I will call it for lack of better word --
21 a permanent address in Iraq? Do you live in a
22 place or in a compound, or a military base, or
23 where do you live?

77

1 A. I live wherever they send me. I
2 have a place -- a bed, a cot, or something
3 wherever they send me.

4 Q. Well, do you have a room or an
5 apartment?

6 A. At the present I do have a room --
7 I don't know how long that will last.

8 Q. Where is your room located?

9 MR. COOKS: Can you tell that?
10 Is it on a military base?

11 A. I can tell you the APO number
12 address -- it's KBR/D16APOAE09312.

13 Q. Well, you are going to have to
14 help me here. Do you have what would be
15 considered a permanent residence or permanent
16 place in Iraq where when you go out to visit
17 these water plants you come back -- this is
18 where you know you are going to be coming back
19 to?

20 A. No, sir. They send me wherever I
21 go and when I get there I don't know how long I
22 will be there, and where I will go when I leave.

23 Q. So when you leave you take all of

78

1 your stuff with you?

2 A. Generally -- either that or they
3 will mail it to me.

4 Q. You don't have a place where you
5 keep your stuff?

6 A. I do right now.

7 Q. But in general.

8 A. I have in the past. I have a
9 different place now. I'll have a different
10 place later on. Mail will be forward to me
11 wherever I go, so if you have that address it
12 will be forwarded to me.

13 Q. Do you generally stay on a
14 military base?

15 A. Generally.

16 Q. When you're accompanied -- when
17 you leave and go from point A to point B, do you
18 usually travel with the military or military
19 protection?

20 A. Yes, sir.

21 Q. I asked if you had any statements,
22 including taped, without permission of any
23 employees of the City of Auburn. Do you have

79

1 any tapes -- and also from the water board -- do
2 you have any tapes that you've made of any
3 employees of the City or of the water board?

4 A. No.

5 Q. Have you ever taped anybody?

6 A. I'm not sure what you mean. I've
7 used tape recorders.

8 Q. Have you used a tape recorder, for
9 instance, for any conversations you've had with
10 Scott Cummings.

11 A. No, sir.

12 Q. How about Rick McCarty?

13 A. No, sir.

14 Q. How about Martin Squires?

15 A. No, sir.

16 Q. How about Steve Kukla, did you
17 tape those?

18 A. No, sir.

19 Q. So there are no tape recordings of
20 any conversations that you've had with or
21 anything that Scott, Rick, Martin or Steve
22 Kukla have ever said, their voice is not on any
23 tape recording that you have?

80

1 A. No, sir.

2 Q. And you have never tape-recorded
3 any of them?

4 A. No, sir.

5 Q. How about Nell Greer? You listed
6 her as a witness. Do you have any tape
7 recordings of her?

8 A. No, sir.

9 Q. Anybody on the interview
10 committee, did you tape any of that?

11 A. No, sir.

12 Q. So no tape recordings of anybody
13 involved in this litigation or anybody that was
14 an employee of yours or an employer of yours or
15 with whom you dealt with the City or water board
16 exists?

17 MR. COOKS: Of Auburn?

18 MR. MORGAN: Yeah.

19 A. Not that I've taped.

20 Q. (Mr. Morgan) Are you aware of any
21 other taped recordings of anybody?

22 A. No.

23 Q. How about written or signed

81

1 statements? Do you have any, or are you aware
2 of any signed statements from any employees of
3 the City or of the water board dealing with this
4 litigation, or your employment, or you not
5 getting a promotion?

6 A. I think I had an e-mail from Nell
7 Greer, but that was on the network and I don't
8 have that any longer.

9 Q. What did the e-mail from Nell
10 Greer have to do with?

11 A. It was pertaining to the pay scale
12 reduction.

13 Q. Pay scale reduction for the
14 position of water distribution manager?

15 A. That's correct.

16 Q. Did that e-mail come before you
17 applied for that position? After you applied?
18 After you didn't get it? After you left the
19 water board?

20 A. After I applied for sure -- I
21 don't know when else it came.

22 Q. Did you request that?

23 A. No, sir.

82

1 Q. Do you have any reason to think it
2 came just to you, or did it go to all
3 applicants?

4 A. I assume it went to all
5 applicants -- I don't know.

6 Q. You didn't ask for it?

7 A. No, sir.

8 Q. It just came telling you there had
9 been a pay scale reduction?

10 A. That's correct.

11 Q. Did it tell you the reason for the
12 pay scale reduction?

13 A. I don't recall.

14 Q. Any other statements that you are
15 aware of?

16 A. No, sir.

17 Q. And you don't have any statements
18 of Rick McCarty taped, written, recorded without
19 his permission?

20 A. No.

21 Q. Just to be clear, my understanding
22 is that you were hired as a water plant operator
23 by the water board?

83

1 A. That's correct.

2 Q. And your employer was the water
3 board?

4 MR. COOKS: Object to the
5 form. You can answer.

6 A. Yes.

7 Q. (Mr. Morgan) How did you find
8 out, or what caused you to make application for
9 the Auburn Water Board?

10 A. Alabama State Employment.

11 Q. They would give you -- I guess you
12 were receiving unemployment compensation?

13 A. That's right.

14 Q. And they would give you a list of
15 possible job openings in your area of expertise?

16 A. That's correct.

17 Q. Did you apply anywhere else other
18 than the Auburn Water Board?

19 A. I applied some other places, I
20 don't recall specifically -- there is one in
21 Elmore County -- I don't know.

22 Q. Was it a water board position as
23 well?

84

1 A. Yes.

2 Q. Central Elmore Water Authority?

3 A. I don't think so. It was in
4 Elmore County, but I don't remember the name of
5 it.

6 Q. Did you send a written application
7 or did you apply on-line?

8 A. I believe I went over and
9 delivered a written application.

10 Q. Do you remember where you took it?

11 A. I don't recall, it's been quite
12 awhile and I don't recall.

13 Q. When you found out about the
14 opening at the Auburn Water Board, were you
15 still living in Demopolis?

16 A. That's correct. I also applied in
17 Opelika.

18 Q. What did you do to apply with the
19 Auburn Water Board? Did you call to get an
20 application? Do it on-line? Drive over? What
21 did you do?

22 A. I believe that the State
23 Employment Service gave me an application and I

85

1 filled it out along with my resume and sent it
2 by registered mailed to the address they gave
3 me.

4 Q. What was next thing that you heard
5 about that from your application? After you
6 sent your application, what was the next thing
7 that happened in terms of your being employed by
8 the water board?

9 A. I was called for an interview.

10 Q. Who called you?

11 A. I believe it was Rick McCarty. It
12 was either Rick McCarty or Tony Segrist, one or
13 the other.

14 Q. When you were hired by the Water
15 board, did Rick McCarty report to Tony Segrist?

16 A. Yes, sir.

17 Q. And Tony then reported to Scott?

18 A. No, sir. There was another
19 superintendent.

20 Q. Who was that?

21 A. I don't recall his name. I
22 remember him quite well, but I don't remember
23 his name.

86

1 Q. But now when you applied for the
2 water distribution managers position, was the
3 chain of command changed so that Rick reported
4 to Scott and the water distribution manager also
5 reported to Scott? Do you know one way or the
6 other?

7 A. I believe that's correct.

8 Q. And what was Tony Segrist's title
9 when he was here?

10 A. I believe it was water
11 distribution manager.

12 Q. So you received a call from either
13 Rick or Tony inviting you for an interview?

14 A. That's correct.

15 Q. Do you remember anything else
16 about that conversation other than the
17 interview, you being told there was an
18 interview?

19 A. Not particularly, no, sir.

20 Q. Do you remember what day you
21 interviewed?

22 A. No, sir.

23 Q. And I assume that was here in

87

1 Auburn?

2 A. It was at the water board office,
3 the old office.

4 Q. Who did you interview with?

5 A. Tony, Rick and Eric, I believe
6 it's Carson.

7 Q. Carson?

8 A. I believe that's correct.

9 Q. What was his position?

10 A. He was somehow working in the
11 engineering department and I don't recall his --
12 I don't know what his position was.

13 Q. What was Rick's title? Do you
14 know?

15 A. He was the plant superintendent.

16 Q. And Tony was the water
17 distribution manager?

18 A. I believe that's correct.

19 Q. How long did the interview last?

20 A. 45 minutes, an hour -- something
21 of that sort.

22 Q. Did they offer you a job during
23 the interview?

88

1 A. No, sir.

2 Q. Did you think it was a fair
3 interview? I mean, did they seem to know what
4 they were talking about or what they were
5 looking for?

6 A. I thought it was a fair interview,
7 yes.

8 Q. Anything about the interview that
9 sticks out in your mind?

10 A. Nothing in particular.

11 Q. That position was for water plant
12 operator?

13 A. Yes, sir.

14 Q. What's the next step that happened
15 in the process of you being hired?

16 A. I believe I was called back for a
17 second interview. I was called back for a
18 second meeting, but it wasn't a formal
19 interview.

20 Q. Who was that with?

21 A. It was with Rick and Tony.

22 Q. What was the difference in the
23 subject matters was that discussed in this

89

1 second meeting as opposed to the first
 2 interview?
 3 A. This was essentially a job offer.
 4 Q. And I assume that's for a full-
 5 time position?
 6 A. Yes, sir.
 7 Q. What was the hourly rate?
 8 A. I was told that the starting pay
 9 was ten dollars an hour.
 10 Q. Do you have any reason to think
 11 that's not correct?
 12 A. Well, I know that other operators
 13 make more than ten dollars an hour with less
 14 experience than me.
 15 Q. But they were more than ten
 16 dollars an hour -- was that on an entry level or
 17 was that after they had been with the board for
 18 a while?
 19 A. I was told that the entry level
 20 wages were ten dollars an hour.
 21 Q. Do you have any reason to think
 22 that's not correct?
 23 A. Apparently it's not correct

90

1 because the man that they hired to replace me,
 2 hired in at the wages that I was receiving at
 3 the time.
 4 Q. What was that hourly rate?
 5 A. I believe it was about fifteen
 6 thirty-five, somewhere in that area.
 7 Q. Who replaced you?
 8 A. Allen -- I believe his name is
 9 Howe.
 10 Q. Howell?
 11 A. I think it's H-O-W-E, but I'm not
 12 sure, but I knew him as Allen.
 13 Q. When did he start working there?
 14 A. I'm trying to recall. I'm
 15 thinking it was winter or late or early spring
 16 of 2006.
 17 Q. So he was actually hired before
 18 you left.
 19 A. He was hired before I left.
 20 Q. Was there somebody hired
 21 specifically to replace you after you left?
 22 A. I don't know.
 23 Q. How did you find out what his

91

1 hourly salary was.
 2 A. He told me.
 3 Q. And that's what you were making as
 4 the chief operator?
 5 A. That's what I was making as a
 6 shift operator. Allen replaced me as a shift
 7 operator.
 8 Q. Is a shift operator the same as a
 9 water operator?
 10 A. Yes, sir.
 11 Q. Water plant operator?
 12 A. Yes, sir.
 13 Q. And you got promoted?
 14 A. Yes, sir.
 15 Q. And you went to chief operator?
 16 A. That's correct.
 17 Q. How much were you making as chief
 18 operator?
 19 A. I believe it was about sixteen
 20 dollars an hour.
 21 Q. Is that what you were making when
 22 you left the employment of the board?
 23 A. I know it was between sixteen and

92

1 seventeen dollars an hour when I left -- I don't
 2 recall exactly.
 3 Q. And you were hired in August of
 4 '99?
 5 A. That's correct.
 6 Q. And Allen was hired sometime in
 7 '06?
 8 A. That's correct.
 9 Q. So on the second meeting with Rick
 10 and Tony is when you were made a job offer at
 11 ten dollars an hour?
 12 A. Correct.
 13 Q. And did you accept that?
 14 A. Yes, I did.
 15 Q. What other benefits did you have
 16 other than the ten-dollars-an-hour salary?
 17 A. Of course the State Retirement
 18 Program, which I had to contribute to and health
 19 insurance.
 20 Q. Did you have to pay for your
 21 health insurance?
 22 A. Yes, sir. I had to pay a small
 23 amount. It was fairly inexpensive.

93

1 Q. So retirement and medical
2 insurance?

3 A. That's correct.

4 Q. And then you began your job as a
5 water plant operator?

6 A. That's correct.

7 Q. Which I think you held that
8 position until early December of '05 when you
9 became chief operator?

10 A. Okay.

11 Q. Does that sound about right?

12 A. I think so.

13 Q. So you would have been almost
14 eight days shy, if my math is right, of being 51
15 when you were hired by the City, right at 51
16 when you were hired by the City?

17 A. Right.

18 Q. What were your duties and
19 responsibilities as a water plant operator?

20 A. Well, to produce water for the
21 City, operate the pumps, chemical feeders, make
22 sure the process is working correctly.

23 Q. Do you do any sampling as a water

94

1 plant operator?

2 A. We did in-house sampling, hourly
3 testing.

4 Q. Do you have to be certified to do
5 sampling?

6 A. Yes, sir, you do.

7 Q. Let me ask you about in terms of a
8 water plant operator. Does a water plant
9 operator need to have done what did you during
10 that, what, six years -- do you need a grade-
11 four water operator certificate to do the job
12 you did?

13 A. It depends on the rate of flow you
14 are running through the facility. If you are
15 running at standard rate you could use a grade-
16 three. If you are running at high rate, you
17 need a grade-four.

18 Q. But you have to be certified in
19 your opinion to work as a water plant operator?

20 A. That's a state law, yes, sir.

21 Q. Was Allen certified?

22 A. When Allen replaced me, he was
23 certified. At the time I went to work for the

95

1 City of Auburn, Allen had not even worked in the
2 water industry.

3 Q. What certification did he have
4 when you left City?

5 A. Grade-four.

6 Q. Who else was a water plant
7 operator other than you when you were hired?

8 A. Working at the facility at the
9 time?

10 Q. Yeah, working for the board. I
11 mean, that's a 24-hours -- does it run 24
12 hours?

13 A. That's correct.

14 Q. So I assume you had one shift and
15 somebody else had another shift?

16 A. Right.

17 Q. Who was that somebody else on the
18 other shift?

19 A. Martin Squires is certified.

20 Q. Does he have a grade-four?

21 A. I think he has a grade-three.
22 Steve Kukla. Let's see. There was another
23 gentleman --

96

1 Q. Is he certified, Kukla?

2 A. I believe he is, yes.

3 Q. Three or four?

4 A. When I was hired in he was a
5 three, he's a four now, or he was when I left.
6 And there had been other people, but I don't
7 recall their names right offhand.

8 Q. What about the grade-four waste
9 water operator certificate, is that something
10 that you needed in your position as a water
11 plant operator?

12 A. No, sir.

13 Q. How about the master plumber's
14 license, is that something you needed for water
15 plant operator?

16 A. To be -- to be able to do repairs
17 at the site it should require a plumber's
18 license. I don't know that the city requires
19 that.

20 Q. In-house?

21 A. Right.

22 Q. Those would be in-house repairs,
23 right?

97

1 A. That's right.
 2 Q. Was anybody else that you were
 3 working with you named Martin, Steve did they
 4 have a plumber's license?
 5 A. No, sir.
 6 Q. Just generally, tell me what you
 7 do, or what you did as a water plant operator.
 8 Take me through a day. Tell me generally what
 9 you would do during a day.
 10 A. Well, I would go in and check the
 11 levels, the tank levels and I would turn on the
 12 remote, the gauges we have, decide how many
 13 pumps to run, how much chemicals to feed, look
 14 at the filters to see which filters needed to be
 15 back washed, make sure all of the chemical tanks
 16 were full -- that's basically it. Check it
 17 every hour as we went along during the day and
 18 make whatever adjustments were necessary to
 19 increase or decrease the flow.
 20 Q. Who was your supervisor? Who did
 21 you report to?
 22 A. Rick McCarty.
 23 Q. Did you supervise anybody?

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1 A. No, sir.
 2 Q. Did you have any contact with the
 3 public?
 4 A. No, sir, rarely.
 5 Q. Were you responsible for any
 6 administrative functions as a water plant
 7 operator?
 8 A. Only for tourists or either
 9 students or regulatory agencies.
 10 Q. I guess Rick would be the person
 11 who was actually responsible for the paperwork
 12 being submitted to the state or whoever?
 13 A. Each operator did paperwork on his
 14 own shift -- he had to do his paperwork. And
 15 the man at the end of the day did the paperwork
 16 for everybody of the day.
 17 Q. The last shift?
 18 A. That's correct.
 19 Q. And then it would go to Rick?
 20 A. That's correct.
 21 Q. And are those kept on file in case
 22 the city or state wants to come by and make an
 23 inspection, or is there a report generated from

99

1 that?
 2 A. It's -- the information is entered
 3 directly on the report. And while I was there I
 4 kept copies, I don't know what Rick does with
 5 them.
 6 Q. You didn't have any budget
 7 responsibilities, did you?
 8 A. No, sir.
 9 Q. And you were not responsible for
 10 scheduling?
 11 A. No, sir.
 12 Q. And didn't have any areas -- no
 13 disciplinary action -- you didn't take any
 14 disciplinary action over employees?
 15 A. No, sir.
 16 Q. Do you move up from water plant
 17 operator? Like sometimes you will be a one or a
 18 two, or every six months or a year you get a
 19 merit raise or cost-of-living raise, did you get
 20 various raises during the time you were a water
 21 plant operator?
 22 A. I did get raises during that
 23 period of time whenever there was a blanket

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1 raise for the employees, or in some cases for
 2 other reasons.
 3 Q. How did your shifts run: Were you
 4 like a 12-hour, 10-hour, 8-hour day.
 5 A. We had -- when I started it was an
 6 8-hour day and when I left it was a 12-hour.
 7 Q. Your position would have been at
 8 the water plant?
 9 A. That's correct.
 10 Q. Who else would have been at the
 11 water plant? How many employees would be on
 12 duty during the time you had a shift, or would
 13 that vary depending on whether it was night or
 14 day?
 15 A. It varied depending on night or
 16 day.
 17 Q. Night, how many other folks?
 18 A. No one.
 19 Q. You were there by yourself?
 20 A. Correct.
 21 Q. And during the day?
 22 A. One to three.
 23 Q. One of those would be Rick?

101

1 A. That's correct.
 2 Q. And what would the other two be?
 3 A. Maintenance personnel.
 4 Q. Did the shifts rotate? Did one
 5 person work only at night and one person during
 6 the day, or did your shifts rotate?
 7 A. They rotated.
 8 Q. And then in December of '05,
 9 according to my records, you were promoted to
 10 chief operator?
 11 A. That's correct.
 12 Q. What did you do to be promoted?
 13 A. I applied for the position and I
 14 was the only one to apply for the position, is
 15 my understanding.
 16 Q. And that was to chief operator?
 17 A. That's correct.
 18 Q. Now was that advertised as an
 19 in-house promotion, or did they solicit
 20 applications from outside of the water board?
 21 A. My understanding was that it was
 22 in-house.
 23 Q. So any water plant operator could

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1 have applied for that position?
 2 A. That's correct.
 3 Q. And that would have included Steve
 4 and Martin at the time?
 5 A. That's correct.
 6 Q. Any others?
 7 A. Terry Coats.
 8 Q. Did you have to take a test or
 9 anything, or did you just make an application?
 10 A. I did an interview.
 11 Q. Who was your interview with?
 12 A. With Rick, Tony, and Eric again --
 13 same three people.
 14 Q. Was Scott involved with the water
 15 board at that time?
 16 A. I think he may have been, but I
 17 didn't know him.
 18 Q. I'm assuming that Rick reported
 19 administratively to Tony?
 20 A. That's correct.
 21 Q. Who did Tony report to?
 22 A. To whoever was the
 23 superintendent.

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1 Q. And you don't remember whether
 2 that was Scott or the other person?
 3 A. I don't remember if it was Scott
 4 at that time.
 5 Q. And then Eric, who did he report
 6 to?
 7 A. I assume he also reported to the
 8 superintendent -- I assume that.
 9 Q. Well, his primary place of
 10 business then was not at the water plant?
 11 A. No, sir.
 12 Q. How long did the interview last?
 13 A. I believe it was about 30 minutes.
 14 Q. Do you remember anything
 15 significant about the interview?
 16 A. No, sir.
 17 Q. Did they offer you the job then?
 18 A. No, sir.
 19 Q. What happened, what's the next
 20 step after the interview?
 21 A. Well, I waited for about three
 22 weeks and then I was finally congratulated one
 23 morning by Rick McCarty.

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1 Q. What did he tell you?
 2 A. Just congratulations -- you are
 3 the new chief operator beginning some date --
 4 gave me the date.
 5 Q. And I assume that was an increase
 6 in pay?
 7 A. Yes, sir, it was an increase in
 8 pay.
 9 Q. What about duties and
 10 responsibilities? What's the significance
 11 between what you were doing as a water plant
 12 operator and what you now did as a chief
 13 operator?
 14 A. I had duties also outside of the
 15 fence, outside of the wall -- more than just the
 16 plant themselves.
 17 Q. What duties did you have outside?
 18 A. Distribution, system sampling, the
 19 raw water pumping station.
 20 Q. What would you do there?
 21 A. More or less check it.
 22 Q. And then you would do sampling
 23 outside?

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1 A. Yes, sir.

2 Q. Would your principal place of

3 business still be the water plant and if you

4 needed to you would travel to these other

5 places?

6 A. Yes, sir.

7 Q. How about your work days, did it

8 change the hours?

9 A. It changed for the most part so

10 that I was only working five days a week, eight

11 hours a day except when I had to fill in for any

12 operator that took off, which was fairly

13 frequently.

14 Q. Well, let's say you were not

15 filling in and you had a five-day, eight-hour

16 work day, what were your hours?

17 A. Well, they were somewhat

18 flexible. Generally from six in the morning

19 until four in the afternoon, but sometimes I had

20 to go in later and work late.

21 Q. I assume if you filled in you fell

22 in the same rotation as the person whose place

23 you took?

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1 A. That's correct.

2 Q. And did the same responsibilities

3 that you had as a water plant operator?

4 A. That's correct.

5 Q. But as the chief operator you had

6 responsibilities outside the facility?

7 A. That's correct.

8 Q. Were there any changes in the

9 responsibilities that you had inside the

10 facility as a chief operator?

11 A. I did maintenance work when I

12 wasn't filling in or working outside the

13 facility.

14 Q. And you reported to who

15 administratively?

16 A. Rick.

17 Q. So you would have been 57 then

18 when you were promoted to the chief operator?

19 A. I believe that's correct.

20 Q. Did you have any supervisory

21 responsibility as the chief operator?

22 A. No, sir.

23 Q. Did you have any contact with the

1 public?

2 A. Yes, sir.

3 Q. What contact did you have with the

4 public?

5 A. Sampling at homes and businesses

6 around the community, and discussing water

7 problems, water issues that customers might be

8 having.

9 Q. Did you have any responsibilities

10 in terms of disciplinary action with other

11 employees?

12 A. No, sir.

13 Q. Did you have any administrative

14 duties?

15 A. Just filing the reports.

16 Q. Did you have any budgetary

17 responsibilities?

18 A. No, sir.

19 Q. Were you responsible for any

20 anybody's work schedule?

21 A. No, sir.

22 Q. Going back to the contact with the

23 public, how would you be advised or learn that

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1 there was a complaint or a sampling that needed

2 to be done?

3 A. Get it from a telephone call that

4 was routed to the facility, or directly if

5 someone called the facility occasionally by

6 Mr. McCarty.

7 Q. Explain to me why you would go out

8 and take a sample from somebody's home. They

9 were making a complaint about a water issue?

10 A. It's required. The State requires

11 that a given number of distribution system

12 samples are collected every month, more or less

13 at random.

14 Q. So by State requirement you would

15 go out and sample a certain number of homes each

16 year?

17 A. Correct.

18 Q. I'm sorry, each month?

19 A. Each month.

20 Q. And did you deal with the person

21 or would you take the water sample -- where

22 would you get the water sample from?

23 A. Well, I would get it at the most

109

1 convenient place, which was wherever they happen
2 to have a faucet that was convenient for me.

3 Q. You wouldn't have to ask
4 permission to get a water sample from a faucet?

5 A. If you have never been to a home
6 before, you need to ask permission. Yes, sir.

7 Q. And would you just tell them that
8 you were doing a water sample and why?

9 A. Yes, sir.

10 Q. Any other contact or communication
11 on a visit like that where you were doing a
12 water sample and just letting them know that you
13 were doing a water sample?

14 A. That's basically it on that
15 particular issue.

16 Q. Other times that you might deal
17 with the public would be if there was a
18 complaint?

19 A. That's right.

20 Q. What kind of complaints would
21 there be?

22 A. Taste and odor. Generally there
23 might be color -- discoloration in the water

110

1 sometimes.

2 Q. As chief operator, were you the
3 only person that would have gone out to sample
4 or handle a complaint for taste, odor and
5 discoloration?

6 A. No, sir.

7 Q. Who else would do that?

8 A. I believe Tony used to do that or
9 someone from Tony's office used to do it, and
10 Rick McCarty.

11 Q. How many of those did you do after
12 you became chief operator?

13 A. I don't recall. A handful
14 probably.

15 Q. Would that generate paperwork, a
16 report?

17 A. Some of them would have -- if
18 there was a sample collected, that would have
19 generated paperwork.

20 Q. Would you have to collect a sample
21 to handle a complaint for taste and odor?

22 A. Not necessarily, you might.

23 Q. What causes could there be for

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1 taste and odor complaints?

2 A. Well they never use water from a
3 particular faucet, and all of a sudden they
4 start using that faucet the water is going to be
5 stale. Some hot water heaters will generate
6 hydrogen sulfide as they are heating the water,
7 and we'll get other problems from hot water and
8 not from cold water.

9 Q. And how about discoloration?

10 A. May have, it's a possibility,
11 discoloration.

12 Q. Just sitting up in there for a
13 while?

14 A. That's correct.

15 Q. And so your best estimate is that
16 you may have handled a handful of those kind of
17 complaints outside of the office where you dealt
18 with the public?

19 A. During the period I was chief
20 operator, yes.

21 Q. Any other reason or occasion where
22 you would deal with the public or a customer,
23 other than the ones we've just talked about?

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1 A. No, sir, not unless it's just a
2 casual contact and somebody asked me a question
3 about their water.

4 Q. How did you learn about the
5 opening or vacancy to the water distribution
6 manager position?

7 A. I came in one morning and was told
8 that Tony had resigned, was going to another
9 job.

10 Q. Where did he go?

11 A. I believe he went to -- whatever
12 it is over in Valley, Alabama. It's a water
13 authority -- I don't know the name.

14 Q. Did you know he was leaving before
15 he resigned?

16 A. I was told about a week before he
17 resigned that he was going to resign.

18 Q. Did he tell you that or you just
19 heard that scuttlebutt?

20 A. Rick McCarty told me that.

21 Q. What was the reason that you were
22 told Tony left?

23 A. More money.

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1 Q. Do you remember how long he was
2 with the water board?
3 A. No, sir.
4 Q. Did you ever have any
5 conversations with him about why he was leaving,
6 Tony?
7 A. I'm sure I must have.
8 Q. Did he make any negative
9 statements about the Auburn Water Board as being
10 a cause of his leaving?
11 A. Not that I recall.
12 Q. So you learned that he was going
13 to resign and then what was the next step in
14 your applying for that position?
15 A. I monitored the Auburn City web
16 site to watch for the job advertisement.
17 Q. Is that how they post vacancies
18 for the water board is through the Auburn web
19 site?
20 A. They were doing that at the time.
21 They didn't always do that and I don't know if
22 they are doing it now, but at the time they did.
23 Q. How else would they have done it?

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1 Do you know?
2 A. I don't know.
3 Q. Your experience when you were
4 working with the Auburn Water Board is that if
5 there was a vacancy there at the Auburn Water
6 Board it would be posted through the city web
7 site?
8 A. Yes, sir.
9 Q. So you were monitoring that for
10 the announcement on the promotion procedure for
11 the water distribution manager?
12 A. That's correct.
13 Q. Did it show up on the web site?
14 A. Yes, sir. I got up one morning
15 and it was there on the web site.
16 Q. Do they post it like at the water
17 plant or the home office for the water board --
18 do they make a physical posting as well, or is
19 it all --
20 A. It was not posted at the water
21 plant.
22 Q. It was not posted at the water
23 plant?

1 A. No, sir.
2 Q. And you don't know whether it was
3 posted -- did you ever have any contact with the
4 water board office -- where the office?
5 A. No, sir. Only when I went by to
6 catch a sample from that location.
7 Q. To your knowledge the only posting
8 was on the web site?
9 A. That's the posting I saw.
10 Q. Did you hear there were other
11 postings?
12 A. No, sir, I didn't hear.
13 Q. How did you know to tune into the
14 web site, just experience?
15 A. Yeah. It's on the web site -- if
16 we wanted information that's where we would go
17 to.
18 Q. So if you wanted information about
19 the water board you would go to the Auburn web
20 site?
21 A. Yes, sir, I would.
22 Q. When you saw the application, did
23 you apply on-line?

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1 A. No, sir. I printed an application
2 from the web site, filled it out, attached my
3 resume to it, and delivered it that same day to
4 the personnel office.
5 Q. What's the next thing that
6 happened towards that promotion procedure?
7 A. I don't recall exactly. There was
8 some delay and some problems in that there was
9 some changes made to the job description and to
10 the salary, and -- there was some delay. I
11 don't recall specifically how it went down.
12 Q. Did you have any conversations
13 with anybody at the personnel office about why
14 there was a delay?
15 A. I think my conversation was
16 limited to Rick McCarty, he was the plant
17 superintendent.
18 Q. What did Rick tell you there was a
19 reason for the delay?
20 A. Just that they wanted to take out
21 the duties of being responsible for the water
22 plant operations, so that would no longer be
23 part of the job duties.

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1 Q. And then you testified earlier you
2 received an e-mail from Nell about the change in
3 the salary.

4 A. That's correct.

5 Q. Was that part of this delay and
6 change in the job description?

7 A. I only know that there was a
8 delay.

9 Q. Was it during this delay period
10 that you received a change about the salary?

11 A. It may have been, I'm not certain.

12 Q. Tell me what Tony did when he held
13 the position of distribution manager. What did
14 he do? What were his day-to-day activities?

15 A. I don't know his day-to-day
16 activities because he worked at one office and I
17 was working at the water plant.

18 Q. He was not at the plant?

19 A. Rarely at the plant. He made an
20 occasional visit maybe four or five times in the
21 period that I worked there.

22 Q. In the, what, over six years that
23 you were there?

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1 A. Yes, sir.

2 Q. Is it fair to say that you did not
3 have frequent interaction with Tony?

4 A. Rarely. My interaction was mostly
5 limited to him calling and saying the water is
6 going to be off, or you need to make more water,
7 or whatever because we are doing something.

8 Q. So you cannot really describe what
9 his day-to-day responsibilities would have been?

10 A. I can't tell you what his day was
11 like. I do know what it takes to manage a water
12 distribution system.

13 Q. Tell me when there was a delay in
14 the promotion process, and they took out the
15 water plant part as you understand it of what
16 Tony did, I guess Rick McCarty continued to
17 handle the water plant part?

18 A. That's correct.

19 Q. What was the other part that was
20 left that Tony did that would have been the
21 subject of the promotion to water distribution?
22 What else did he do?

23 A. Well, that would be the actual

1 day-to-day operation and maintenance of the
2 distribution system, including water line
3 repairs, extensions, meter readings, and
4 whatever other maintenance cleaning lines or
5 fire hydrants that needed to be done.

6 Q. As I understand your answer, you
7 don't know specifically what Tony did in terms
8 of those responsibilities?

9 A. No, sir, I don't know what he did.

10 Q. Going back to your certifications,
11 do you know whether or not to do those other
12 functions that became the subject of the
13 promotion, not the water plant but the other
14 areas, did you need a grade -- would a person
15 need a grade-four water operator's certificate
16 to do those, or do you know?

17 A. No, sir. They would not need a
18 grade-four level -- they would need a
19 certificate.

20 Q. And you wouldn't need a waste
21 water operator's certificate to do those?

22 A. You wouldn't need it if you were
23 restricted to the water distribution system. My

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1 understanding was that Tony also had some
2 involvement of the operation of the waste water
3 plant facilities.

4 Q. Well, if you did have involvement
5 with the waste water plant, would you have to
6 have a grade-four waste water operator's
7 certificate?

8 A. Not if you were the -- not the
9 actual operator. You would have to have a
10 certified operator on duty.

11 Q. Somebody would have to be on duty?

12 A. That's correct.

13 Q. But it wouldn't necessarily have
14 to be the person in charge?

15 A. The person in charge would have to
16 have, but you if you were -- since it was a
17 contract operation, Tony's involvement, he would
18 not have been in charge of the operation.

19 Q. Did he have a grade-four water
20 operator's certificate?

21 A. I don't believe he did, no, sir.
22 I don't think he did.

23 Q. Did he have any certificate for

121

1 water?

2 A. I'm not aware of any certificate
3 he may have had.

4 Q. Do you know if he had any
5 certificate for waste water operator?

6 A. I'm not aware.

7 Q. Did he have a master plumber's
8 license?

9 A. I'm not aware of.

10 Q. Do you know of any certificate
11 that Tony had?

12 A. No, sir.

13 Q. Do you know of any certificate
14 that would have been required to do that part of
15 Tony's job outside of the water plant?

16 A. Yes, sir.

17 Q. What was that?

18 A. He would have had to have a
19 certification for water distribution system.

20 Q. Do you have that certificate?

21 A. The grade-four certification
22 covers that also.

23 Q. If you are not a grade-four, is

122

1 there another certificate or certification that
2 says water distribution center?

3 A. Grade-one.

4 Q. Does the person who's over that --
5 let's say you got that job as water distribution
6 manager, would you personally have to have the
7 grade-one certificate, or would there just have
8 to be somebody on staff to do that work that
9 required the grade-one to run the system?

10 A. You would have to have someone on
11 staff, but if you were going to do any of the
12 work yourself like collecting the samples,
13 whatever, you would have to be certified.

14 Q. If you are not certified you would
15 have to have somebody there that has a
16 certification to collect a sample?

17 A. That actually does the work, all
18 of the work the repairs and everything.

19 Q. And to your knowledge Tony did not
20 have any of those certifications?

21 A. I'm unaware.

22 Q. You did sampling as the chief
23 operator out at the water plant?

123

1 A. That's correct.

2 Q. Is there other sampling that would
3 be required?

4 A. Yes, sir.

5 Q. What other type sampling would be
6 required?

7 A. Well, if there's any repairs or
8 new lines being installed, renovation of old
9 lines or water storage tanks, all of that would
10 require a new sample. Also customer complaints,
11 if you are servicing customer complaints, the
12 nature of the complaint might require a sample.

13 Q. Let me ask you this: Was there
14 somebody else -- when you were the chief
15 operator -- was there somebody else that was
16 doing those samplings?

17 A. No, sir. Let me back up. I
18 believe there was an employee for the City that
19 was doing some sampling.

20 Q. But from the water board, you or
21 Rick were the only ones doing samplings?

22 A. That's my understanding, yes, sir.

23 Q. And here's why I'm asking the

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1 question and you kind of help me with this:

2 From what I understood you to say you worked out
3 of the water plant, whereas Tony worked out of
4 somewhere else?

5 A. Yes, sir.

6 Q. And if somebody called in with
7 some of these complaints or needs for water
8 samplings for new lines or whatever, do you know
9 if there was somebody there where Tony worked
10 that would go out and do those samples?

11 A. I don't know.

12 Q. You don't know one way or the
13 other?

14 A. I know that samples were taken
15 while Tony was there -- since -- after Tony
16 left, I don't know.

17 Q. Who took the samples while Tony
18 was there?

19 A. I don't know.

20 Q. But from the water plant the
21 people that were doing the sampling that you
22 talked about the odor, the discoloration, that
23 would be either you or Rick?

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1 A. Not necessarily. We only service
2 those complaints that were directed to us.

3 Q. There could have been complaints
4 that weren't directed to you?

5 A. That's correct. A lot of
6 complaints were never directed to us.

7 Q. So there could have been somebody
8 that worked at what I'm going to call the home
9 office, or wherever Tony was, that was doing
10 sampling as well?

11 A. That's correct.

12 Q. You just don't know that one way
13 or the other?

14 A. I am aware that there were some
15 samples taken -- I don't know who took them.

16 Q. Do you have reason to believe that
17 it was somebody other than Tony that took them?

18 A. I don't know.

19 MR. MORGAN: Do y'all want to
20 break for lunch? It's 12:00.

21 MR. COOKS: Let's take a
22 break.

23 12:04 PM

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1 (Lunch break.)

2 1:14 PM

3 Q. (Mr. Morgan) You had printed off
4 the application for the position off the web
5 site and filled it out, and then delivered it
6 that day?

7 A. Yes, sir, along with my resume.

8 Q. And then there was a delay, which
9 apparently was a result of, I'm going to say,
10 dividing up not necessarily but changing some of
11 the responsibilities that Tony may have had --
12 taking those sort of backing them out and I
13 guess Rick was going to do part of it -- and
14 that left open the distribution part that
15 remained as part of the promotion procedure as
16 you understood it. Is that true?

17 A. I believe that's true. As far as
18 I know, that's true.

19 Q. And then you received information
20 about a decrease in the proposed salary, I
21 guess?

22 A. Yes, sir.

23 Q. And then what's the next thing

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1 that happened in terms of the promotion
2 procedure?

3 A. Well, I had gallbladder problems
4 and had some time off and had gallbladder
5 surgery. During that time I had received a
6 notification that my application had been
7 received by the City of Auburn. I then got a
8 telephone call asking me to report for an
9 interview, and I reported for the interview the
10 very day I returned to work after my surgery.

11 Q. And that was in April that you had
12 the interview?

13 A. I believe that's correct.

14 Q. Do you remember what day in April?

15 A. I don't recall.

16 Q. I guess when the telephone call
17 that you had received informing you about the
18 interview that you were off work?

19 A. Yes, sir, I was at home.

20 Q. And that would have been, I guess,
21 sometime in March?

22 A. Yes, sir.

23 Q. Well, did that create any problem

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1 for you being interviewed the day that you came
2 back?

3 A. Well, I don't think it necessarily
4 created a problem for me. I wasn't my hundred
5 percent self, but other than that...

6 Q. Well, did you ask them to ask
7 anybody to reschedule you?

8 A. No, sir, I didn't.

9 Q. Did you verbalize to anybody that
10 was on the interview committee that you were
11 just returning for the first day?

12 A. Yeah, I started saying that and
13 Scott shook his head no, so I wasn't supposed to
14 say that, so I didn't -- I stopped.

15 Q. What did you start to say?

16 A. I said this is my first day back
17 at work I just had gallbladder surgery -- and
18 then he cut me off, so I stopped.

19 Q. Well, what did he do to cut you
20 off?

21 A. Just no, like, you're not supposed
22 to say that.

23 Q. Did he say no?

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1 A. I don't recall that he actually
2 said no, or just made a gesture, but he cut me
3 off.

4 Q. Did you ever talk to him about
5 that?

6 A. No, sir. I did talk to him after
7 the thing was over and after someone else had
8 been hired and I talked to him about the job.
9 And I mentioned to him then that I felt that I
10 was at a disadvantage.

11 Q. What did he say about that?

12 A. Nothing, no comment.

13 Q. Did everybody interview the same
14 day?

15 A. I don't know.

16 Q. How long were you off with the
17 gallbladder surgery?

18 A. I believe I was off three to five
19 weeks, somewhere in that area -- I'm not
20 certain.

21 Q. Where was the surgery performed?

22 A. In the hospital in Opelika.

23 Q. East Alabama?

130

1 A. Right.

2 Q. Did you stay in the hospital any
3 overnight or was it outpatient?

4 A. It was outpatient, but I had to
5 return that night. I had the surgery in the
6 morning, was sent home and then I had to return
7 that night.

8 Q. Do you remember how many people
9 were on the interview committee?

10 A. I believe there was six or seven.

11 Q. I'm going to ask you about these
12 people: Scott Cummings was on the interview
13 committee?

14 A. Yes, sir.

15 Q. And you knew Scott?

16 A. Yes, sir.

17 Q. Do you know how old Scott was at
18 the time?

19 A. No, sir.

20 Q. Eric Carson was on the interview
21 committee?

22 A. Yes, sir.

23 Q. And you knew Eric Carson?

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1 A. Yes, sir from my previous two
2 interviews.

3 Q. And he works for the board.

4 A. Yes, sir.

5 Q. Do you know how old he was at the
6 time of the interview?

7 A. No, sir.

8 Q. And then there was a Michael
9 Thompson. Do you know Michael Thompson?

10 A. I don't know who he is. The name
11 sounds familiar, but I don't know who he is.

12 Q. Do you know how old he is?

13 A. No, sir. There were two younger
14 men on the board that I would say in their late
15 20s, but I don't know.

16 Q. And then Derrick Godfrey works for
17 the board, do you know him?

18 A. I don't know him.

19 Q. Do you know how old he is?

20 A. No, sir.

21 Q. And then Charles Howard worked for
22 the board, do you know him?

23 A. I don't know him.

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1 Q. And do you know how old he is?

2 A. No, sir.

3 Q. And then there was a Jill Holland?

4 A. Yes, sir.

5 Q. Do you know her?

6 A. I know who she is.

7 Q. Do you know how old she is?

8 A. No, sir, I don't know.

9 Q. And Kathy Bullard, do you know
10 her?

11 A. I don't know her, but I believe
12 she's the lady that was sitting right next to
13 me.

14 Q. Do you know how old she is?

15 A. No, I don't.

16 Q. Do you know whether or not any of
17 the people on the interview committee were in
18 their '50s?

19 A. I would think that the last lady
20 you mentioned probably was, but that's a guess.

21 Q. How long did the interview last?

22 A. I think it was 30 minutes, 20
23 minutes -- 30 minutes, somewhere in that area.

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1 Q. Tell me what sort of format they
2 followed. Did everybody ask you questions? One
3 person? What went on in the interview?

4 A. Scott opened the interview and
5 then he asked for people to ask questions, some
6 did and some didn't.

7 Q. Do you remember how many questions
8 you were asked?

9 A. No, sir, I don't.

10 Q. Do you remember who asked you
11 questions?

12 A. The lady to my right asked a
13 question -- Jill asked a question, one of the
14 younger men that was sitting directly opposite
15 of me at the other end of the table asked some
16 questions, and Scott asked some questions.

17 Q. Did you think the questions were
18 appropriate for the position you were applying
19 for?

20 A. I suppose some were and some
21 weren't.

22 Q. Tell me what questions you
23 remember that you think were not appropriate?

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1 A. Well, I can't recall all of the
2 questions right now. I just -- I think some
3 were asking about my -- well, I can't think --
4 no, I'm sorry I just can't recall any right now.

5 Q. Do you recall admitting during the
6 interview that you had not read the job
7 description?

8 A. I do recall that I had not read
9 the revised job description, because it came out
10 while I was on sick leave.

11 Q. Well, did you read the first job
12 description?

13 A. Yes, sir.

14 Q. But didn't read the revised one?

15 A. That's correct.

16 Q. Well at the time that you made
17 application and had the interview, what was your
18 understanding as to what you would be doing if
19 you were hired as the water distribution
20 manager?

21 A. I would be interfacing with the
22 office staff to process work orders, which would
23 be customer complaints, new services, meter

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1 readings, disconnects and reconnects and
2 repairs, and schedule general maintenance work.

3 Q. Where did you get that
4 understanding?

5 A. Got that understanding from the
6 original job description.

7 Q. Had you talked to Tony Segrist
8 before your interview about what he actually did
9 on that part of his job?

10 A. I didn't talk to him about that
11 part of his job. When I talked to Tony, the job
12 had not been separated.

13 Q. Did you talk to him in general
14 about what he did?

15 A. Yes, sir, I'm fully aware of what
16 he did.

17 Q. What did he tell you he did?

18 A. Well, he told me he ran the
19 distribution, that's what he said, and that most
20 of his problem was getting people to work and on
21 time.

22 Q. So what he told you was he ran the
23 distribution part of it?

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1 A. That's correct.

2 Q. Do you recall admitting during
3 your interview that you were weak on paperwork
4 and documentation?

5 A. No, sir, I never said that.

6 Q. Did you say anything similar to
7 that?

8 A. I said -- when they -- they said
9 what is your weakest area? I said I don't have
10 any weak areas. And they said, if you had to
11 name one. And I said I hate doing paperwork and
12 I assume things that you don't like doing are
13 probably the things that you don't do as well,
14 but I also -- and I said but -- I use computers
15 a great deal and that makes up for the paperwork
16 and cuts way down on it.

17 Q. As we sit here today are there any
18 other questions that you can think of that you
19 were asked or any other information that you
20 provided the interview committee?

21 A. I remember being asked to
22 categorize some things in order of importance,
23 but I don't remember specifically what they

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1 were, like customer service and employees and
2 things like that. I remember being asked
3 several questions about contractors, but there
4 was no delineation of what they meant by
5 contractors -- whether it was contractors
6 working for the water board, or contractors
7 developing, or contractors building houses.
8 There was no identification as to what type of
9 contractor they were talking about.

10 Q. What kind of questions were you
11 asked about the contractors?

12 A. I don't remember specifically. I
13 think they were saying that they had a lot of
14 problems with contractors in the area -- I don't
15 know what that means.

16 Q. Did you ask them which kind of
17 contractor they were talking about?

18 A. I didn't ask, because as long as I
19 wasn't asked a question about what they were
20 doing specifically -- I didn't ask.

21 Q. Well, what was the nature of the
22 question: How well do you get along with
23 contractors? Can you handle contractors? I

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1 mean, what do you recall the question being?

2 A. It was something of that sort:
3 Can you work with contractors? Well, yeah, I've
4 worked with contractors for many, many years,
5 all types of contractors.

6 Q. Where all have you worked with
7 contractors?

8 A. Well, I had a great deal with -- I
9 worked with contractors at Mobile County Water,
10 Sewer and Fire Protection Authority. We did
11 some major expansion while I was there, so that
12 was our contractors. We dealt with house
13 builders and land developers all of the time.
14 It's just a matter of course.

15 Q. How about with the City of Jackson
16 Water Board or Professional Services Group, did
17 you work with any contractors there?

18 A. Yes, sir, I sure did.

19 Q. What would be the nature of
20 working with contractors with Professional
21 Services Group when you were in Demopolis?

22 A. We had land developers there. And
23 we had a little bit of expansion of our own, but

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1 mostly land developers and house builders.

2 Q. How about Jackson Water Board?

3 A. Again, mostly land developers and
4 house builders. Most of the expansion we did,
5 we did on our own, in-house labor.

6 Q. Now, in your complaint you allege
7 that when you entered the room one of the
8 individuals began shaking his head no and made
9 negative gestures and comments during the
10 interview?

11 A. Correct.

12 Q. I assume that was a male?

13 A. Yes, sir.

14 Q. Who is that person?

15 A. I don't know the man's name. He
16 was a younger man. He was sitting around in the
17 middle of the table to my left near Scott
18 Cummings.

19 Q. Was he black or white?

20 A. White.

21 Q. And you know it wasn't Scott or
22 Eric?

23 A. No, sir.

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1 Q. And if Charles Howard is black,
2 then that leaves either Michael Thompson or
3 Derrick Godfrey.

4 A. Yes, sir.

5 Q. And you don't know which one of
6 those it was?

7 A. No, sir, I don't know the name.

8 Q. Can you give me a physical
9 description of this person?

10 A. I don't really -- sort of a stout
11 build, but he wasn't standing up, so I can't
12 tell how tall he was -- he was sitting all the
13 time, but he was kind of a heavy-built.

14 Q. Did he wear glasses?

15 A. I don't recall.

16 Q. Do you remember how he wore his
17 hair?

18 A. I don't recall.

19 Q. Was he balding? Did he have hair?

20 A. He had hair. He had hair -- it
21 was a younger man.

22 Q. Do you know what color his hair
23 was?

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1 A. No, I don't.
 2 Q. Anything else you can remember
 3 other than he appeared to be stout?
 4 A. No, sir.
 5 Q. Did he ask you a question?
 6 A. No, sir, he never asked a
 7 question.
 8 Q. Well, there were, I guess, two
 9 white males there that, from your testimony, you
 10 didn't know: Michael Thompson and Derrick
 11 Godfrey. Did either of those ask you questions?
 12 A. Yes, sir.
 13 Q. One of them asked you questions?
 14 A. Yes, sir. One asked me questions
 15 regarding the computer software that I was
 16 familiar with, which is an extensive list.
 17 Q. And then the other one is the one
 18 that you say was shaking his head no and making
 19 negative gestures?
 20 A. That's correct.
 21 Q. Because he did not ask you
 22 questions?
 23 A. I don't recall him asking any

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1 questions, no, sir.
 2 Q. Did you ask him why he was shaking
 3 his head no?
 4 A. No, sir, I didn't.
 5 Q. Well, did anybody articulate any
 6 reason why this person would be shaking his head
 7 no?
 8 A. No, sir.
 9 Q. And you say throughout the
 10 interview he made negative gestures?
 11 A. Well, he was just constantly
 12 hanging his head down and shaking his head no,
 13 and looking around and shaking his head no and
 14 looking around.
 15 Q. Do you have any idea why he would
 16 be doing that?
 17 A. I assume it meant that he didn't
 18 like me, but that's an assumption.
 19 Q. Nobody's ever given you any reason
 20 if that happened, why that happened?
 21 A. No, sir.
 22 Q. Did you ever talk to Scott or Rick
 23 or anybody about that?

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1 A. No, sir.
 2 Q. How did the interview conclude?
 3 A. I'm not sure.
 4 Q. Well, I mean, were you satisfied
 5 with the way it went? Unhappy with the way it
 6 went?
 7 A. Well, I don't know. I felt like I
 8 had made a good representation of myself. I had
 9 a closing statement in which I said that I had
 10 already been with the company for a long time
 11 and they knew the quality of my work and that
 12 I'd like to get the promotion.
 13 Q. Had you had any disciplinary
 14 actions, reprimands, or write-ups up to that
 15 point as an employee?
 16 A. No, sir.
 17 Q. Now as you've articulated what you
 18 understand that job involved, was there anything
 19 from your position as chief operator that you
 20 thought would provide a good background or was
 21 similar to the new position that you were trying
 22 to get?
 23 A. My knowledge of water would have

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1 been a great asset dealing with customer
 2 complaints. The fact that I had previously, in
 3 other jobs, handled billing systems and computer
 4 networks and things of that sort, I also felt
 5 that would help me to contribute to the overall
 6 welfare of the operation.
 7 Q. How about in your position as
 8 water plant operator -- was there anything in
 9 that position that you thought provided a good
 10 background, would have been an asset for the
 11 position you were trying to get?
 12 A. My reliability and dedication to
 13 the job, the fact that I knew the capacity and
 14 the quality of the water that we were producing
 15 and delivering to the citizens of Auburn.
 16 Q. How about in any of your prior
 17 jobs that you had before you came with the water
 18 board?
 19 A. I think in all of my -- well, in
 20 most of my prior jobs the distribution system
 21 had always been part of my responsibility.
 22 Q. Now let me ask you a question this
 23 way: In terms of your duties as chief operator,

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1 were any of the duties that you did as chief
2 operator duties that you understood you would be
3 doing in that new position?

4 A. Customer complaints and sampling
5 to a degree.

6 Q. Is there anything in the water
7 plant operator position that you thought you
8 would be doing in your new position?

9 A. No.

10 Q. Is there anything in your prior
11 jobs that you thought you would be doing in this
12 new position that you had done before?

13 A. Yes, sir.

14 Q. What was that?

15 A. All sorts of maintenance of the
16 water system, meter reading, repairs, scheduling
17 of work, budgeting, reporting.

18 Q. Did you use computer programs in
19 your job with Professional Services Group?

20 A. Yes, sir.

21 Q. How about with the Jackson Water
22 Board, did you use computers there?

23 A. Yes, sir.

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1 Q. Did you use computers with the
2 Mobile County Water, Sewer and Fire?

3 A. Yes, sir.

4 Q. Did you use computers with Lake
5 Forest Utilities?

6 A. No, sir.

7 Q. Did you use computers with the
8 City of Saraland?

9 A. No, sir.

10 Q. Did you use the computers with the
11 City of Prichard?

12 A. No, sir.

13 Q. Did you use your computers in your
14 first position with the Mobile Water System?

15 A. No, sir.

16 Q. In which one of those earlier
17 systems that you worked were you responsible for
18 the billing?

19 A. I guess Lake Forest Utilities was
20 the first.

21 Q. Did you actually do the billing,
22 or did you just oversee that administratively?

23 A. I actually computed problem bills,

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1 but generally I oversaw the operation.

2 Q. Any other of the places that you
3 worked that you had either hands-on
4 responsibility for billing or administratively
5 responsible for billing?

6 A. Mobile County Water Sewer and Fire
7 Protection Authority.

8 Q. Any others?

9 A. Limited amount at Professional
10 Services Group.

11 Q. In your opinion, what part of the
12 job that you were trying to seek on the
13 promotion required a background in water?

14 A. All of it.

15 Q. Without any exception?

16 A. I think you have to know the
17 product you are dealing with.

18 Q. Well, do you think you could be an
19 effective water distribution manager if you did
20 not have a background in water?

21 MR. COOKS: Object to the
22 form. You can answer if you can.

23 A. I do have a background in water.

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1 I mean, that's a situation I can't imagine.

2 Q. (Mr. Morgan) Well, let's say
3 another person didn't have a background in
4 water. Would that person, if they were able to
5 do the other things that you've described as
6 being necessary, would they be able to do an
7 effective job as a water distribution manager in
8 your opinion?

9 MR. COOKS: Object to the
10 form.

11 A. I don't think so.

12 Q. (Mr. Morgan) Why not?

13 A. Because even reading meters
14 requires a knowledge of how meters work.

15 Q. Let's see. You've talked reading
16 meters. Did you understand that Tony actually
17 read meters?

18 A. I don't believe that Tony read
19 meters because he was responsible for having the
20 meters read.

21 Q. What else did you say was your
22 understanding of job positions that he did:
23 Maintenance?

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1 A. I think he was in charge of all of
2 the distribution system: The maintenance of the
3 lines, the fire hydrants, the water meters, the
4 flushing of lines.

5 Q. Is it your understanding that Tony
6 actually did the maintenance?

7 A. I don't believe that he actually
8 did the maintenance. I do know that I saw him
9 standing over many a hole watching people do the
10 job to see that it was done correctly.

11 Q. Do you know whether or not he
12 actually did any of the sampling?

13 A. I believe that he did from
14 discussions with him. I never saw him take a
15 sampling.

16 Q. And scheduling, I guess he did the
17 scheduling?

18 A. I'm sure he would have scheduled
19 in coordination with the office staff.

20 Q. What else was it that you thought
21 that that job entailed: Maintenance, reading
22 meters, sampling, scheduling, interface with the
23 office staff?

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1 A. There would have been that, there
2 would have been customer complaints, there would
3 have been expansion projects that he would need
4 to review and comment on.

5 Q. What's the next step that happened
6 after your interview? What happened next in
7 terms of the promotion procedure?

8 A. Well, again, there was a long
9 delay and I didn't hear anything for a while.
10 And I found out that someone had been hired for
11 the position, unofficially when I went into work
12 way day. One of the other operators told me
13 that someone has been hired.

14 Q. Who is that?

15 A. Who?

16 Q. Told you.

17 A. Martin Squires, I believe, is the
18 first to tell me that.

19 Q. Did he tell you how he knew?

20 A. He said Rick McCarty told him.

21 Q. Did he tell you who had been
22 hired?

23 A. He didn't know the man's name. He

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1 said that he understood that he was working at a
2 store in the area and had no water experience at
3 all.

4 Q. Anything else that Martin Squires
5 told you initially about the hire?

6 A. I believe he told me that he
7 worked at a grocery store or that he thought he
8 had worked at a grocery store -- I believe
9 that's what he told me -- the he thought he
10 worked at a grocery store or a meat store or
11 something of that sort.

12 Q. And that's the first word that you
13 heard?

14 A. That's correct.

15 Q. Did Martin tell you when he found
16 out?

17 A. No, sir.

18 Q. What did you do with that
19 information?

20 A. I waited for Rick McCarty to come
21 to work.

22 Q. And did you talk to Rick that
23 day?

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1 A. Yes, sir, I did.

2 Q. What was y'all's conversation?

3 A. The conversation was that someone
4 had been hired and he had no experience, but he
5 was a younger man and there was going to be a
6 stiff learning curve on this new job, and so
7 they felt like he would be a better fit.

8 Q. Now, did Rick refer to him as a
9 younger man?

10 A. Yes, sir.

11 Q. He used those words?

12 A. Yes, sir.

13 Q. Did he tell you how he knew that?

14 A. No, sir, he didn't.

15 Q. Did Rick know who he was?

16 A. I don't believe he told me his
17 name. I don't know if he knew it or just didn't
18 tell me.

19 Q. How did he know he was a younger
20 man?

21 A. I don't know.

22 Q. Now, on your application for that
23 position, isn't it true there was nowhere to put

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1 your age or date of birth?

2 A. I don't recall that -- probably
3 not -- I don't recall.

4 Q. And Rick was not on the interview
5 committee?

6 A. No, sir, he wasn't.

7 Q. Do you know of any input that Rick
8 had in terms of the promotion?

9 A. No, sir.

10 Q. Did he make any comments in this
11 conversation where he told you that this was a
12 younger man and there was going to be a stiff
13 learning curve -- did he make any comments that
14 the person who was selected for that position
15 was hired because he was younger?

16 A. No, sir. He just said that that's
17 what he had been told and that I would be a
18 better fit where I was, according to Scott. He
19 said Scott said that -- he was telling me what
20 Scott had said.

21 Q. Did you ask Rick the significance
22 of being told there was a stiff learning curve?

23 A. I gave Rick a quick rundown of my

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1 education and my abilities, and I told him I'm
2 just being discriminated against flat-out.

3 Q. In that first conversation you
4 told him that?

5 A. Yes, sir, sure did.

6 Q. Well, what did you understand when
7 Rick said that there was going to be a stiff
8 learning curve? What did you understand that
9 meant?

10 A. Well, I'm not -- at the time I
11 didn't have any idea what that meant, but
12 apparently if you don't know anything at all
13 about the job it's a pretty steep learning
14 curve.

15 Q. Well, why did you think
16 immediately that you were being discriminated
17 against?

18 A. Because I'm not a person that
19 needs -- you don't need to be concerned about a
20 learning curve to me. I'm quite capable of
21 learning things very quickly.

22 Q. Well, assume that's true. Just
23 because they hire somebody else, why does that

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1 mean they discriminate against you?

2 A. Well, as I said, I was told that
3 they hired a younger man.

4 Q. By Rick?

5 A. Yes, sir.

6 Q. Who did not elaborate to you that
7 that was the reason the person was hired?

8 A. No, sir, he did not.

9 Q. But you just assumed that at that
10 point?

11 A. I assumed at that point that if
12 they hired a younger man with no experience
13 instead of hiring an experienced older man they
14 were being discriminatory, yes, sir.

15 Q. And do you know how old the person
16 is that was hired?

17 A. No, sir, I don't know his age.

18 Q. Have you ever seen him?

19 A. Yes, sir, I have met him.

20 Q. So what happened after you had
21 this conversation with Rick? What did you do
22 next?

23 A. Rick immediately got on the

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1 telephone after I told him that I was being
2 discriminated against, that I felt that I was
3 being discriminated against. He got on the
4 telephone, and then he took his portable phone
5 and left the office and went out back behind the
6 building so that the people in the office
7 couldn't hear what was being said. And then he
8 came back later and told me that Scott Cummings
9 wanted to talk to me.

10 Q. Did you talk to Scott?

11 A. Yes, sir, I did talk to Scott. I
12 believe I talked to him on the telephone just
13 long enough for him to tell me that he wanted to
14 set up an appointment to meet with me.

15 Q. Did y'all set up an appointment?

16 A. Yes, sir.

17 Q. Where was the appointment?

18 A. He came to the water plant where I
19 was working.

20 Q. Who was present during the meeting
21 with you and Scott?

22 A. He closed the door so there was
23 only he and I.

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1 Q. And nothing about that meeting was
2 taped, right?

3 A. No, sir.

4 Q. Did Rick tell you he thought you
5 would be a better fit or that Scott had said --

6 A. Scott said that, that's what he
7 said.

8 Q. Did you ask Rick what he meant by
9 that?

10 A. No, sir. At that point I was
11 angry.

12 Q. So what went on in this
13 conversation between and you Scott?

14 A. Scott told me that they had hired
15 this other man because he thought they had -- he
16 had more experience in dealing with the public,
17 which I thought was odd. And he went on to tell
18 me that he wanted to hire someone in this
19 position that would be there for a long time,
20 indicating to me that he thought I was too old.

21 Q. What else was said in that
22 conversation between the two of you?

23 A. I don't recall anything else.

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1 There was more conversation, some of it was
2 trivial matters. I believe I explained to him
3 how I happened to be working there in Auburn in
4 the first place and why I had been willing to
5 settle for an operator's job.

6 Q. Well, why had you been willing to
7 settle for an operator's job?

8 A. Well, because I had just gone
9 through a divorce, a lost job and some problems
10 with one of my daughters.

11 Q. But nobody from Auburn promised
12 you anything other than offering you a job as a
13 water plant operator, did they?

14 A. No, they didn't.

15 Q. What was Scott's response to that?

16 A. He just said he wished he'd known
17 all of that earlier.

18 Q. Anything else that y'all talked
19 about?

20 A. Again, we talked about a good
21 bit -- some of the things trivial -- and I don't
22 recall the whole conversation.

23 Q. Why did you think it was odd that

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1 Scott said the person that was hired had more
2 experience dealing with the public?

3 A. Well as I said, I've been in the
4 utility business for quite a while. And when
5 you are in the utility business you don't have
6 one or two customers -- you have thousands of
7 customers and you have to deal with some of them
8 all the time -- it's a constant thing.

9 Q. Yeah, but when we went through
10 your employment earlier this morning you didn't
11 indicate that you had any extensive experience
12 dealing with customers.

13 A. As a manager, anything that
14 anybody couldn't handle whether it was in the
15 distribution system, the billing office or even
16 the fire system, I had to handle it. Some of
17 the customers actually would ask to see me when
18 they first came in the door. They didn't want
19 to talk to anybody but the manager.

20 Q. Well, would that have been the
21 case at Professional Services Group?

22 A. Yes, sir.

23 Q. Was that one of the reasons why it

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1 lost a contract with Demopolis because the
2 customer complaints were not being handled
3 properly?

4 A. No, sir. As a matter of fact,
5 while I was there we renewed the contract, we
6 went through a three-year contract and renewed
7 the contract again.

8 Q. But you were there when they
9 decided to drop the contract?

10 A. Yes, sir, I was.

11 Q. When he made the statement,
12 according to you, that he wanted to hire someone
13 who would be there for a long time, why did that
14 indicate to you that you were too old?

15 A. Well, I assume that he was saying
16 that I'm too -- he asked -- in fact now that you
17 said that, I do recall. He asked how long it
18 was to my retirement age, so he was definitely
19 aiming that toward my retirement age -- but I
20 recall him asking how long before you are going
21 to be retiring.

22 Q. Now, when did he ask you that?

23 A. Sometime during the conversation.

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Q. What did you tell him?

A. I told him I assumed I would work until I died, I believe.

Q. And after that is when you claim he made the comment that he wanted to hire somebody to be there a long time?

A. Yes, sir.

Q. I want to be clear on this. You said that after you told Scott about why you wound up at Auburn and going through a divorce and a problem you had with your daughter, that he'd wished he'd known that. Did he make any comment --

A. He didn't make any further comment.

Q. Well, what percent of your job would you say dealt with the public when you worked at Professional Services Group?

A. Probably 20 percent.

Q. Twenty percent of your time was spent on customer complaints?

A. Yes, sir.

Q. How about Water Board of the City

of Jackson?

A. Probably -- well, it varied there because we had some issues where I had constant every day, nothing but customer complaints when I first arrived. We were able to work out those issues, and it settled down after a few months to probably 10 or 15 percent.

Q. Did you tell Scott during this first conversation that you thought you were being discriminated against?

A. Yes, sir.

Q. What did he say about that?

A. He didn't make any comment.

Q. Did you tell him you planned on suing?

A. No, sir, I did not. I did tell him that I thought bad things happen because good people didn't stand up for themselves.

Q. What did he say about that?

A. He didn't make any comment.

Q. What's the next thing that happened? Did you have anymore conversations with Rick or Scott?

A. I worked with Rick every day.

Q. Did y'all talk about this?

A. Scott made several visits to the plant specifically to talk to me and to discuss this, all of the time trying to tell me that I should be happy right where I am.

Q. How many conversations did you have with Scott altogether?

MR. COOKS: Object to the form. You mean subsequent to the one we just got through talking about.

MR. MORGAN: Yeah.

Q. (Mr. Morgan) Counting the first one, how many did you have with him altogether?

A. Three or four -- I'm not sure -- some of them on the phone and two or three here at the plant.

Q. And what was discussed in these subsequent meetings?

A. As I said he assumed to say that I ought to be quite content where I was -- that I was doing a good job, he was happy with my work, and that I should be happy there.

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Q. And what would you say to him?

A. I said the other job pays twice as much.

Q. And what did he say?

A. No comment.

Q. Well, did he make anymore references -- do you claim he made anymore references in any of these other conversations about retirement, your age, a longtime employee or anything?

A. No, sir. The message I got from Rick McCarty was that the Human Resources Department had said that we could no longer talk and discuss the matter.

Q. That who could no longer talk and discuss the matter?

A. Rick and I, or Scott and I.

Q. But you said Scott came out there and talked to you two or three times?

A. This was after -- prior to the -- what Rick telling me that Human Resources said that we couldn't talk anymore.

Q. Were you still employed with the

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1 water board when you filed your EEOC complaint,
2 or did you file your EEOC complaint after you
3 left the water board?

4 A. I was still employed with the
5 water board.

6 Q. Well, did you have two or three
7 conversations with Scott in addition with that
8 first one before Rick said y'all couldn't talk
9 about it?

10 A. Yes, sir.

11 Q. Did Scott, in any of those
12 conversations, do you claim he made any
13 statements about your age, or retirement, or
14 younger employee, or working there a long time,
15 or anything in any of those subsequent
16 conversations?

17 A. As I said in the subsequent
18 conversations, he kept trying to convince me
19 that I should be just happy right where I was.

20 Q. So to answer to my question, there
21 were no more comments about somebody being there
22 a long time, or your retirement or anything?

23 A. No, sir.

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1 Q. And then did you have anymore
2 conversations with Rick McCarty about why you
3 were not promoted?

4 A. No, sir.

5 Q. Other than that first one where he
6 told you what he said Scott had told him, that's
7 the only time you discussed it with him?

8 A. I had other conversations with
9 Rick since then. I had -- I had a couple of
10 incidents that -- where I was told that I had to
11 perform the duties of the distribution system
12 manager because the person they had employed
13 wasn't able to do the job, didn't have the
14 knowledge and certification to do the work.

15 Q. Well, I'm going to get to that in
16 a minute. But my understanding is from what
17 you've testified, Rick told you that morning
18 after you had talked to Martin that Scott said
19 he hired a younger man?

20 A. Yes, sir.

21 Q. Are there any other conversations
22 you had with Rick or any other comments Rick
23 made about your age, the new person's age,

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1 retirement, hiring a younger person, working
2 there a long time, anything dealing with age?

3 A. I don't recall any, but as I said
4 I work with Rick every day and, you know, we had
5 conversations of one form or another every day.

6 Q. Well, did Rick express any
7 opinions he had on the new hire?

8 A. No, sir.

9 Q. Did he ever make the comment to
10 you that Kyle should never have been hired?

11 A. No, sir, never made that comment
12 that I recall.

13 Q. How about Martin Squires, did you
14 have any further conversations with him about
15 the new hire?

16 A. I'm sure I did.

17 Q. Anything in particular that you
18 remember?

19 A. I don't recall. I'm sure that
20 having worked with the operators there and
21 being, you know, friends with them, that it was
22 well-discussed, but I don't recall any
23 specifics.

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1 Q. Do you recall anything that Martin
2 Squire said about your age or the new hire's
3 age?

4 A. I don't recall.

5 Q. Do you remember anything
6 derogatory that Martin Squire said about the new
7 hire, Kyle?

8 A. I don't know that he knew the new
9 hire.

10 Q. In fact he doesn't work with him
11 at all, does he?

12 A. Not that I'm aware of. I don't
13 really know since I've left.

14 Q. Any other coemployees at the water
15 plant that you had any conversations with about
16 the promotion or the new hire, Kyle, or age?

17 A. I'm sure that I discussed it with
18 all of them.

19 MR. COOKS: Let him finish his
20 question before you answer.

21 Q. (Mr. Morgan) Do you remember
22 anything in specific that you had conversations
23 with any of them about?

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1 A. No, sir.

2 Q. Do you remember any of the people
3 that worked with you at the water plant making
4 any negative comments about Kyle?

5 A. No, sir.

6 Q. Do you remember any of them at the
7 water plant where you worked making any comments
8 that a younger person was hired and you weren't
9 hired because of your age?

10 A. I'm sure that comment was made, I
11 don't recall anybody specifically making it.

12 Q. Did you make it?

13 A. Yes, sir, for sure I made it.

14 Q. Did anybody else make it?

15 A. I'm sure that I had some
16 agreement, yes, sir, but I don't recall who
17 might have agreed to it.

18 Q. And so at some point Rick said
19 that HR said not to discuss it any further?

20 A. Correct.

21 Q. Did you have any conversations
22 with him about this matter after that, with
23 Rick?

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1 A. Not directly this matter.

2 Q. Well, what indirectly did you
3 have?

4 A. As I said I was told that I was
5 going to have to go out and perform some of the
6 duties.

7 Q. I'm going to get to that in just a
8 minute. How about Scott, anymore conversations
9 with Scott about the promotion and not getting
10 it?

11 A. The same type of indirect
12 conversation.

13 Q. Well, what did Rick and Scott,
14 either one or both, tell you that you had to do
15 that you don't think you should have done?

16 A. I was told that the new man had
17 caused an upset in the water lines in a certain
18 part of town, and that he wasn't qualified to
19 take the samples, and they wanted to take
20 samples out there to assure everyone that the
21 water was safe to drink. As a matter of fact
22 Kyle, himself called me.

23 Q. He talked to you?

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1 A. Yes, sir. He told me he needed me
2 to handle the customer complaints.

3 Q. Well, how does Rick get involved
4 indirectly?

5 A. Rick was not present at the time.
6 But I had a raise that I was due, the raise was
7 held up, and a comment on my evaluation was that
8 I failed to cooperate with the distribution crew
9 in collecting samples or something to that
10 effect.

11 Q. And so you discussed it with Rick?

12 A. Yes, sir.

13 Q. Rick never asked you to go do
14 something for the distribution manager?

15 A. No, sir. Rick did not. Rick was
16 not present at the time.

17 Q. Your indirect conversation about
18 all of this was Rick, was your raise held up?

19 A. Rick told me about the problems
20 and the distribution system.

21 Q. That he was upset because there
22 were some water line problems?

23 A. Yes, sir.

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1 Q. Rick told you that?

2 A. Yes, sir, Rick told me about the
3 upset in the distribution system. Kyle called
4 me to go out and work on it.

5 Q. What area of town was this?

6 A. I don't know.

7 Q. Well, at what point did Rick tell
8 you that people were upset because of something
9 the distribution person had caused in the water
10 line? Was that when you were talking to him
11 about your raise?

12 A. No, sir. No, sir, he had been to
13 a visit at the office and he came back and said
14 there are some problems in this one subdivision
15 because of a pump that was turned on and the
16 water lines weren't flushed prior to turning it
17 on, and as a result the water is brown all over
18 the neighborhood.

19 Q. Is that before or after Kyle asked
20 you to go ask out and take some samples?

21 A. Kyle called me later that same day
22 telling me he needed me to go out and fix it.

23 Q. So Rick told you about the problem

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1 earlier and then Kyle -- well, did Rick say it
2 was Kyle's fault?

3 A. He didn't say whose fault it was.
4 It's a distribution system problem -- it's the
5 distribution system manager's fault.

6 Q. And so Kyle called and asked you
7 to go out and fix it that same day?

8 A. Told me that he needed me to go do
9 this, I was supposed to go do this. I was
10 supposed to go take samples and supposed to go
11 talk to the customers and calm them down. I
12 told him I would have to talk to Scott before I
13 could do that.

14 Q. And that was a conversation that
15 you had directly with Kyle?

16 A. Yes, sir.

17 Q. Rick didn't through some third
18 party, tell you you needed to do that -- Kyle
19 told you you needed to do that?

20 A. Kyle told me that.

21 Q. Why would you have to talk to
22 Scott?

23 A. Because I didn't think it was my

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1 duty to go out and do this man's job for him.

2 Q. Wouldn't Kyle have been your
3 superior?

4 A. No, sir. According to -- what I
5 was told the job description was revised to be
6 he had no authority over the water plant.

7 Q. Did you make the comment at that
8 time or later in regard to this request from
9 Kyle that you were not going to be a team
10 player?

11 A. No, sir.

12 Q. You never made the statement that
13 you were not going to be a team player?

14 A. No, sir, I have never made that
15 statement.

16 Q. Did you talk to Scott about it?

17 A. Scott phoned -- well, actually I
18 believe I called Scott and he wasn't in, and I
19 left a message and he called back.

20 Q. What happened when you talked to
21 Scott?

22 A. Told him I didn't think it was my
23 responsibility. It should be the job of the

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1 distribution system manager to take care of
2 those problems.

3 Q. What did Scott say?

4 A. Scott said, well, okay if you feel
5 that way fine, and slammed the phone down.

6 Q. So did you do it?

7 A. No, sir. I had already explained
8 to Kyle that I had no transportation. The truck
9 that I normally drove was broke down, I wouldn't
10 have any transportation to get out there.

11 Q. I thought you told Kyle you had to
12 talk to Scott?

13 A. Kyle said he would send somebody
14 to pick me up and take me out there, and I said
15 I'm going to have to talk to Scott first.

16 Q. So it wasn't a matter of
17 transportation, they could have gotten you
18 there?

19 A. No, they could have gotten me
20 there, that's right.

21 Q. You just didn't do it because you
22 didn't get the job.

23 A. Because it wasn't my job to do

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1 that. It wasn't my job to do that. My job was
2 to work at the water treatment plant.

3 Q. I thought you said part of your
4 job as a chief operator was to take samples
5 outside?

6 A. That's correct. To take
7 bacteriological samples for the monthly state
8 requirement.

9 Q. So even though this is something
10 that would have been necessary for the proper
11 operation of a water board and distribution of
12 water and that Scott had asked you to do it, you
13 weren't going to do it?

14 MR. COOKS: Object to the
15 form.

16 A. I didn't tell Scott I wouldn't do
17 it. I told him I didn't think it was my
18 responsibility. When he hung -- slammed the
19 phone down in my face -- I assumed he didn't
20 need me to do it.

21 Q. (Mr. Morgan) Is he your superior?

22 A. Yes, sir, Scott is.

23 Q. Is that the way you handle or deal

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1 with most requests for assistance from superiors
2 is tell them it's not your responsibility?

3 A. I think it's my right to say that
4 I don't think it's my responsibility. He didn't
5 say, well Norman, it is your responsibility or
6 something of that nature.

7 Q. Well, why would he? I mean, he
8 asked you to do it and you worked for him, why
9 wouldn't you do it?

10 A. Well, he didn't ask me to do it,
11 sir. He had Kyle call me and tell me to do it.

12 Q. Well, didn't Kyle tell you that
13 Scott said for him to call you?

14 A. I don't recall him saying that at
15 all. He did tell -- he may have said that -- I
16 think he may have said that.

17 Q. Any other incidences where you
18 refused to do work for the board other than that
19 one?

20 MR. COOKS: Object to the
21 form.

22 A. I don't think that I refused to do
23 work.

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1 Q. (Mr. Morgan) Well, any other
2 occasions where you were asked to do something
3 and you decided it wasn't your responsibility,
4 other than that one time?

5 A. I don't believe that I decided
6 that I didn't have to do that job. I objected
7 to doing the job and I would have done the job
8 if I had been told to, but not without protest.

9 Q. Well, were there other occasions
10 that where you were asked to do jobs that you
11 didn't do it other than that one?

12 A. No, sir.

13 Q. Is that the only time you've ever
14 talked to Kyle?

15 A. I believe I was introduced to him
16 once before.

17 Q. Well, other than exchanging
18 pleasantries, did y'all have any conversation
19 about the job or anything at that time?

20 A. No, sir.

21 Q. And then this conversation where
22 he called you and said Scott said you should go
23 out there and do these samples, that's only two

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1 times you've spoken with Kyle?

2 A. Yes, sir, I believe so -- and I'm
3 not sure -- I'm not sure that he said Scott
4 asked me to go do those samples. As I recall
5 what he said was I need you to do this -- I need
6 you to do this. I don't believe he -- I'm not
7 sure that he said anything about Scott, until I
8 said I needed to talk to Scott first.

9 Q. Well, from the time that you
10 learned that you were not being promoted, which
11 I think was in May, up until the time when you
12 left the board of employment, do you have any
13 complaints about your employment during that
14 period of time?

15 A. I'm not sure what you are asking.

16 Q. Well, is there anything that -- I
17 mean, you were unhappy about this conversation
18 you told me about with Kyle, is there anything
19 else you were unhappy about during the remainder
20 of your employment with the board?

21 A. I was unhappy from time to time
22 with the working conditions, and that even
23 though we were not supposed to be smoking in

180

1 City buildings it was allowed to go on.

2 Q. Smoking. Anything else other than
3 smoking?

4 A. I don't recall anything else.

5 Q. Who was allowed to smoke?

6 A. Steve Kukla.

7 Q. Did you ever see him actually
8 smoke inside?

9 A. Many times.

10 Q. Didn't you complain to somebody
11 about that?

12 A. Yes, sir, I sure did.

13 Q. Who did you complaint to?

14 A. Rick McCarty.

15 Q. Was anything done about it?

16 A. He posted a note on the board
17 saying you're not supposed to smoke in the
18 building it's a City ordinance, and Steve used
19 to smoke -- sat up in his chair right up under
20 the notice to smoke.

21 Q. Sat right up under where?

22 A. He moved -- the notice was on the
23 bulletin board, Steve would push his truck --

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1 his chair over to the bulletin board and smoke
2 right underneath the notice.

3 Q. Who else saw that besides you?

4 A. I assume that the other operators
5 saw it.

6 Q. Well, did anybody else complain
7 about it?

8 A. I don't know.

9 Q. Did you talk to any of the
10 operators about it?

11 A. I mentioned it to the other
12 operators that I had complained about it.

13 Q. Who did you talk to, what other
14 operators?

15 A. To Terry -- well, to all of them.

16 Q. Who?

17 A. To all of them.

18 Q. Martin?

19 A. Martin, Terry and Allen.

20 Q. Well, after Rick posted the sign
21 that said no smoking in the building, did you
22 complain to Rick anymore about it?

23 A. Yes, sir.

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1 Q. What did he say?

2 A. He said, I put a notice on the
3 board.

4 Q. And what did you say then?

5 A. Nothing.

6 Q. Any other complaints about your
7 working conditions other than the smoking?

8 A. No, sir, I don't recall any other
9 problems.

10 Q. Did you change your phone number
11 at your land line or take out your home phone?

12 A. I don't have a land line at my
13 home.

14 Q. Did you have one at one time?

15 A. Yes, I did.

16 Q. When did you take it out?

17 A. I don't recall specifically. I
18 decided to go wireless and that's what I'm
19 using, a wireless cell phone.

20 Q. Did you take it out before you
21 left working with the board?

22 A. Yes, sir.

23 Q. Did you tell the people at the

183

1 board that you no longer had a land line?

2 A. I don't recall specifically. I'm
3 sure I must have.

4 Q. Why do you say you must have?

5 A. Well, because that's only way they
6 could contact me.

7 Q. Did you have a cell phone?

8 A. Yes, sir.

9 Q. Did you give your cell phone
10 number to people at the board?

11 A. Well, they have called me -- some
12 of -- the operators have called me, so I must
13 have, yes, sir.

14 Q. Who's called you on your cell
15 phone?

16 A. Steve in particular called me
17 once -- I remember that incident.

18 Q. Steve?

19 A. Yes, sir, he was injured at work
20 and called me.

21 Q. Steve Kukla?

22 A. Yes, sir.

23 Q. What happened to him, he was

184

1 injured?

2 A. He fell down some steps.

3 Q. How was y'all's relationship?

4 A. I like Steve well enough.

5 Q. You what?

6 A. I liked him. He's a nice enough
7 guy.

8 Q. Did you ever talk to him about not
9 smoking?

10 A. Yes, sir, sure did.

11 Q. What did he say?

12 A. He says oh, yeah, you know, I've
13 been trying to quit.

14 Q. You don't think he was smoking
15 maliciously because you complained about it, do
16 you?

17 A. After the notice was put up, yes,
18 sir.

19 Q. Did you talk to him about it then?

20 A. No, sir.

21 Q. Before you went to vacation to
22 Houston, I guess, were you interviewed for the
23 job, did you turn your keys in to anybody?

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1 A. We had a new maintenance man show
2 up and I gave him the set of keys.
3 Q. Did you tell him you weren't
4 coming back?
5 A. No, sir. He had no keys and Rick
6 was off on vacation or something and I gave him
7 my set.
8 MR. MORGAN: Y'all want to take a quick break?
9 MR. COOKS: Sure.

2:15 PM

(Short break.)

2:28 PM

12 Q. (Mr. Morgan) Mr. Lacey, you may
13 have been out of the country, but in this case
14 there is what's called initial disclosures where
15 you give the names of people you think may have
16 information about your case.
17 A. Okay.
18 Q. And one of the people listed is
19 Rick McCarty. What is it that you think he
20 knows about your lawsuit?
21 A. Well, I think he knows the
22 circumstances of the discrimination.
23

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1 Q. And that would be?
2 A. The fact that someone less
3 qualified was hired because he was younger.
4 Q. Do you know Mr. Hildress'
5 qualifications?
6 A. No, sir.
7 Q. My understanding is your lawsuit
8 is -- your claim of discrimination is that you
9 were not promoted because of your age?
10 A. That's correct.
11 Q. You don't make any other
12 employment claims?
13 A. No.
14 Q. It's a promotion claim?
15 A. That's correct.
16 Q. And the promotion claim is that
17 you didn't get promoted because of your age, or
18 flip-flopping it they promoted a younger person?
19 A. An unqualified person, yes, sir.
20 Q. Anything else that you think Rick
21 McCarty knows about your claim other than what
22 you just told me?
23 A. No, sir.

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1 Q. Has he made any comments about
2 Kyle being less qualified?
3 A. He told me that Scott told him on
4 the very first day that the man had no water
5 experience.
6 Q. And that's the basis of saying
7 he's less qualified because he has no water
8 experience?
9 A. Yes, sir.
10 Q. And you said also that Rick told
11 you in that first conversation that Scott said
12 he was younger?
13 A. Yes, sir.
14 Q. Now to be clear, you don't make
15 any claim that Rick knows any first-hand
16 evidence about the reason you were not promoted
17 or that Kyle was promoted?
18 A. I would assume that he knows what
19 Scott told him.
20 Q. Because Rick was not involved in
21 the process?
22 A. Not to my knowledge.
23 Q. And did not make the decision?

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1 A. Not to my knowledge.
2 Q. Then you listed Scott Cummings.
3 A. Yes, sir.
4 Q. What do you claim Scott Cummings
5 knows about your lawsuit?
6 A. I think Scott Cummings instigated
7 the discrimination and I think he's entirely
8 responsible for it.
9 Q. Why do you say that?
10 A. Because he was not only the
11 manager, but he led the board -- he made the
12 decision.
13 Q. Anything else that you say Scott
14 knows about this lawsuit?
15 A. None, I don't have anything else.
16 I think he knows everything about it, that's
17 what I think he knows.
18 Q. Martin Squires, you have him
19 listed -- what is it that you think he knows?
20 A. He only knows what he was told.
21 Q. By Rick?
22 A. By Rick.
23 Q. Do you know of anything that

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1 Martin was told directly by Scott?

2 A. I don't know of anything directly
3 by Scott, no, sir.

4 Q. Am I correct in understanding that
5 what you think Martin Squires knows is what he
6 told you initially that he heard from Rick that
7 somebody else had been promoted?

8 A. Okay, that's right.

9 Q. And you don't know of anything
10 that Martin knows firsthand about your
11 promotion?

12 A. No, sir.

13 Q. And you don't know of anything
14 else that you've talked about, or remember
15 anything else that you have talked about
16 specifically with Martin about the promotion,
17 other than that first conversation where he told
18 you what Rick told him?

19 A. I don't recall any specifics of
20 any other conversations, no, sir.

21 Q. Then you've got Nell Greer, what
22 does she know about your lawsuit?

23 A. The only thing is the e-mail that

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1 I received from her regarding the change, that's
2 all.

3 Q. Do you remember if you were asked
4 by the interview committee anything about your
5 supervisory experience?

6 A. I'm sure I must have been, I don't
7 recall specifically.

8 Q. Do you recall any information or
9 statements that you made to the interview
10 committee about your supervisory experience?

11 A. No, I don't recall any specifics.
12 Most of my work prior to going or being employed
13 at Auburn was supervisory.

14 Q. My question is -- I want to be
15 clear -- I want to know what you remember
16 telling the interview committee about your
17 supervisory experience?

18 A. I don't recall any specifics.

19 Q. Do you remember relating or
20 sharing any information with the interview
21 committee about your handling or experience with
22 customer relations?

23 A. Yeah, I'm sure that that was

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1 discussed.

2 Q. What do you remember telling them?

3 A. Well, I think there was some
4 comment about Jill being a very tough person to
5 deal with, and I remember telling them that in
6 Jill's position she has to be a tough person to
7 deal with, because that's one of the things that
8 I used to tell my clerks was you never blink
9 with a customer. You are sympathetic, you
10 listen to what they have to say, but you never
11 say wait a minute did I make a mistake, you know
12 you don't do that. You check -- if you think
13 you made a mistake you stop and you look, and
14 then you go back, but you don't ever blink in
15 front of a customer. Because if you do, you
16 only prolong an argument that you don't have to
17 have.

18 Q. Anything else that you remember
19 discussing with your interview board about your
20 experience with customer relations.

21 A. Just that I had quite a bit of
22 experience with customer relations, dealing with
23 customers in the billing office and in the

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1 field.

2 Q. Did you have any conversations or
3 present any information to the interview
4 committee about your experience in managing
5 staff or operations?

6 A. I remember being questioned about
7 the number of employees that I had supervised in
8 the past.

9 Q. What did you tell them
10 specifically about that?

11 A. Well, I just told them basically
12 the same thing today: How many employees that I
13 had worked with at each job.

14 Q. Did they go through the various
15 positions that you've held and ask you about
16 those kind of things that we talked about
17 earlier?

18 A. I don't think we went all the way
19 through the list. I was asked about particular
20 places: How many here, how many there, that
21 kind of thing.

22 Q. Did you provide any information or
23 were you asked any questions or share any

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1 information with the interview committee about
2 your experience with dealing with local
3 contractors?

4 A. I'm sure that -- as I mentioned
5 they mentioned some concern about contractors,
6 and yeah I did tell them that I had worked with
7 contractors before without a problem. And
8 again, they weren't specific about what type of
9 contractors, but I had had worked with a wide
10 range of contracting issues.

11 Q. Do you remember telling Rick that
12 the board had hired a butcher instead of you?

13 A. I remember telling Rick that --
14 when Martin told me that he thought the man was
15 a -- worked in a store or a meat company and
16 that's why I said butcher -- because if he
17 worked in a meat company he was a butcher.

18 Q. So you made the comment to him
19 that the board had hired --

20 A. No, I said has the board -- is
21 that what you are telling me -- the board has
22 hired a butcher instead of a water operator?

23 Q. What did Rick say in response?

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1 A. He said he didn't know what the
2 man had done for a living. It wasn't a personal
3 comment about the man -- I didn't know the man.
4 I was talking about the type of work that he
5 did.

6 Q. Are there any conversations that
7 you've had with Scott about the promotion
8 procedure, your not being promoted, or this
9 lawsuit that we haven't covered in this
10 deposition?

11 A. I don't recall anything. I think
12 we've covered certainly the major issues.

13 Q. Now as to Rick, are there any
14 conversations you had with Rick about this
15 promotion procedure, or your employment, or this
16 lawsuit, or your age that we haven't covered?

17 A. The only thing I think we have not
18 covered was the evaluation where my raise was
19 held up and I had negative comments on my
20 evaluation.

21 Q. Was that after this incident that
22 you told me about with Kyle calling and asking
23 you to take samples?

195

1 A. Yes, sir.

2 Q. What conversations did you have
3 with Rick about that?

4 A. I told him that it was obvious
5 that this was some retribution because I was
6 objecting to doing another man's job.

7 Q. What did Rick say?

8 A. He didn't really comment. He said
9 well, you know, Norman, Scott put these comments
10 on them, I didn't -- is what he said.

11 Q. Did you get your raise?

12 A. I believe I eventually did get the
13 raise, but it was delayed.

14 Q. And my understanding was you
15 submitted a letter of resignation to the board?

16 A. Yes, sir, I did.

17 Q. At the time you sent that letter
18 of resignation you had already been working with
19 Kellogg, Brown and Root, hadn't you?

20 A. I had accepted a position with
21 Kellogg, Brown and Root, that's correct.

22 Q. Now, tell me what evidence you
23 have that you were denied that promotion because

196

1 of your age?

2 MR. COOKS: Object to the
3 form.

4 A. I think the evidence is in my
5 background, I think it speaks for itself. I was
6 eminently qualified for the job and I don't
7 think I was ever actually given a chance to be
8 even considered for the position.

9 Q. (Mr. Morgan) Why not?

10 A. As I said when I went in there was
11 one man shaking his head no -- apparently job
12 experience doesn't count for anything. The fact
13 that I had a very positive work record with
14 Auburn didn't count for anything. I was under
15 the impression that there was veteran's
16 preference given to city employees -- Scott
17 tells me he never heard of that. So I felt like
18 I was discriminated against, yes, sir. And I
19 think it's all there in the records in my
20 resume.

21 Q. When did you have the conversation
22 with Scott about the veteran's preference?

23 A. That was one of the conversations

197

1 he and I had after I didn't get the position.

2 Q. What was said by who?

3 A. I don't recall specifically. I
4 just -- I just -- I remember asking him and is
5 this man a veteran, was he a veteran? Well, no
6 he wasn't a veteran, Norman. And I said isn't
7 there a veteran preference, don't you give
8 veteran's preference. And he said I've never
9 heard of veteran's preference.

10 Q. Anything else that you can
11 remember about any of these conversations with
12 Scott?

13 A. I'm sure that there was a lot
14 discussed and I'm sure that after a year I don't
15 recall everything that was said.

16 Q. Well, have we covered everything
17 that you do remember?

18 A. Yes, sir.

19 Q. Is there anything else that you
20 rely on for your claim that you were not
21 promoted because of your age? Has anybody ever
22 told you you didn't get this promotion because
23 of your age?

198

1 A. I think Scott told me that when he
2 said he wanted somebody that was going to be in
3 that position for a long time. I think that's
4 exactly what he was saying.

5 Q. Anybody else that you claim made
6 any comments like that other than Scott?

7 A. The comment that Rick said Scott
8 made about there being a steep learning curve.
9 Seemed to me that every excuse they came up
10 with, when I refuted that excuse they had a
11 brand-new one.

12 Q. Well, when you had the
13 conversation with Rick about the steep learning
14 curve, the decision had already been made to
15 hire somebody else?

16 A. Yes, sir.

17 Q. Did you ever discuss that with
18 Scott?

19 A. Yes, sir.

20 Q. What did he say? What was his
21 explanation?

22 A. He dismissed that right off.
23 Apparently that had been communicated back to

199

1 him in the conversation on the phone he had with
2 Rick, because he just dismissed that right away
3 and didn't say anything else. Then he started
4 talking about this man has had so much more
5 experience with customer relations. And when I
6 dismissed that, when I explained to him that
7 that wasn't the case and proved it to him, it
8 was something else. You know it was just one
9 little excuse after another. But when he told
10 me that he wanted someone in that position a
11 long time that was the reason -- that was the
12 reason.

13 Q. Any other comments made by Scott
14 or anybody else that support your claim?

15 A. I don't recall anything else.

16 Q. Tell me how you claim you've been
17 damaged in this lawsuit. What damages do you
18 seek?

19 A. I've had to leave a secure job, go
20 halfway around the world to be shot at, knowing
21 that it's not a permanent job. I felt like I
22 was being persecuted there where I was. I was
23 not happy because of the things that were being

200

1 forced upon me, and the negative comments on my
2 evaluation. I just didn't feel like I could
3 stay there anymore.

4 Q. You voluntarily decided to take
5 another job?

6 A. I took another job because I
7 couldn't remain at Auburn under those
8 circumstances.

9 Q. That was your choice, though --
10 nobody at Auburn said you had to leave.

11 A. Nobody fired me, no, sir.

12 Q. Nobody at the water board said you
13 couldn't stay here, did they?

14 A. No, sir.

15 Q. Do you claim you've lost any
16 salary, or are you making more money now?

17 A. I have lost salary in the long
18 run. I am making less per hour now than I was
19 at the City of Auburn. I have no benefits where
20 I am, and it's a short-term job. There is no
21 retirement. There is very little in the way of
22 health benefits.

23 Q. How much are you making an hour?

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1 A. It's about twelve dollars and
2 fifty-three cents an hour, somewhere in that
3 area. I'm not a hundred percent certain and I
4 will produce a pay stub when I can find one.

5 Q. Do you get a bonus?

6 A. I get what they call an uplift for
7 on the first 40 hours of pay. It's an increase
8 for harsh living conditions.

9 Q. How much is your uplift?

10 A. It's 65 percent of the base
11 salary.

12 Q. And you get that on the first
13 40 hours?

14 A. Yes, sir.

15 Q. So you make twelve fifty-three
16 plus 65 percent of twelve fifty-three?

17 A. Yes, sir. Plus I'm required to
18 work 84 hours a week, 12 hours a day, 7 days a
19 week.

20 Q. So you get time-and-a-half on the
21 other 44 hours?

22 A. Yes, sir.

23 Q. Do you get an uplift or increase

202

1 on the other?

2 A. No, sir.

3 Q. Well, is the 44 hours overtime?

4 A. Yes, sir.

5 Q. Is that figured on the twelve
6 fifty-three an hour, or is that figured on the
7 twelve fifty-three plus the 65 percent an hour?

8 A. Just the base salary.

9 Q. The twelve fifty-three?

10 A. Yes, sir.

11 Q. So you make on the first 40 hours
12 then approximately twenty dollars an hour and
13 then you make time-and-a-half on the other 44
14 hours?

15 A. That's right.

16 Q. You don't pay income taxes on
17 that, do you?

18 A. I do pay state. And if something
19 happens and I have to come back before 330 days,
20 then I have to pay federal income tax, too.

21 Q. Well, you have already been over
22 there 330 days?

23 A. That's right, right now I have.

203

1 Q. So you are not paying any federal
2 tax?

3 A. Not federal tax.

4 Q. And you didn't pay any federal tax
5 for the rest of '06?

6 A. I didn't pay federal tax on the
7 money I earned over there.

8 Q. Right.

9 A. That's correct.

10 Q. So that's tax-free?

11 A. Yes, sir.

12 Q. Are you saying you pay state tax
13 on that?

14 A. It's subject to state tax, yes,
15 sir.

16 Q. What's state tax bracket, three
17 percent?

18 A. I don't know what it is. I have
19 not filed that yet. I have filed a state tax,
20 but it has to be amended before October.

21 Q. Did you pay any income tax to the
22 state on the money you earned last year working
23 for Kellogg, Brown and Root?

204

1 A. I have not at this time, but I
2 will be required to.

3 Q. What other salary income or
4 bonuses do you receive?

5 A. None. Oh, I get air fare back and
6 forth.

7 Q. They pay for your travel?

8 A. Right. Once a year.

9 Q. Do you actually work 84 hours a
10 week or do you just get paid for 84 hours a
11 week?

12 A. No, I work 84 hours a week.

13 Q. And you have no living expenses?

14 A. Well, no, I do have some living
15 expenses.

16 Q. What are they in Iraq?

17 A. They provide food and shelter. I
18 have to provide clothing, which is kind of rough
19 on clothing over there, and my personal needs.
20 Plus I have to pay someone to look after my
21 personal affairs back here. I've had two
22 burglaries in my house since I've been away. So
23 I mean, there are expenses associated with

205

1 working over there.

2 Q. But you don't pay for food and
3 shelter?

4 A. I don't pay for food and shelter
5 over there.

6 Q. Who do you pay over here to look
7 after your house?

8 A. Tony Embrey.

9 Q. How much do you pay her?

10 A. Two hundred dollars a month.

11 Q. Do you do that by check or cash?

12 A. Cash.

13 Q. Do you get a receipt or anything?

14 A. Yes, sir.

15 Q. Do you take that off of your taxes
16 as a deductible?

17 A. No, sir, I don't know. I don't
18 know if it's even deductible living.

19 Q. Have those two burglaries been
20 reported?

21 A. They have been reported, yes, sir.

22 Q. Did you lose any stuff?

23 A. I have lost some things, but after

206

1 a year I can't be sure of what all I did lose.
2 A lot of the things I had in storage and a lot
3 of the things are packed away.

4 Q. Did you take any of that off of
5 your taxes?

6 A. I have not, no, sir.

7 Q. Do you have a contract with
8 Kellogg?

9 A. Yes, sir.

10 Q. A written contract?

11 A. Yes, sir.

12 Q. How long is the contract for?

13 A. It's a three-year contract -- it's
14 actually one year at a time.

15 Q. Just rolls over?

16 A. Yes, sir.

17 Q. And you are now into your second
18 contract -- second year?

19 A. I will be -- when I go back I will
20 start my second contract -- second year.

21 Q. What was the date of your first
22 year?

23 A. The 18th -- July the 18th.

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1 Q. And they don't provide you with
2 medical insurance?

3 A. There is major medical coverage,
4 it's not cheap and it's not very effective --
5 it's major medical coverage is all it is.

6 Q. Who pays for that?

7 A. I pay part of it and the company
8 pays part.

9 Q. Well, does it cost you anymore
10 than it did in the insurance with Auburn?

11 A. Yes, sir.

12 Q. How much is your part?

13 A. I think it's about a hundred and
14 twenty -- I'm not sure.

15 Q. Is that through the company or
16 through the government?

17 A. It's through the company.

18 Q. Who's the policy with? Who's the
19 carrier? Let me get a copy of that.

20 A. CIGNA.

21 Q. CIGNA?

22 A. Yes, sir. Of course I have to
23 maintain my home here, so --

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1 Q. Well, you would have to do that
2 anyway?

3 A. Well, I do, yes, so living is not
4 free. It would be the same living expense there
5 as here.

6 Q. Yeah, but you are not having to
7 pay any extra is what I'm asking?

8 A. I'm not paying extra, no, sir.

9 Q. I'm going to mark this as
10 Defendant's Exhibit No. 1.

11 (WHEREUPON, a document was
12 marked as Defendant's Exhibit No.
13 1 and is attached to the original
14 transcript.)

15 MR. COOKS: Let me see if we
16 need to redact anything.

17 MR. MORGAN: I don't think so,
18 but if y'all see something after the deposition
19 you can call me. I'm not trying to publish it.
20 I just want to be sure I have the information if
21 I want to follow up on it.

22 Q. (Mr. Morgan) Well, what happens
23 if you get sick, who pays your medical bills,

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1 government?

2 A. No, no. I pay the medical bill
3 and I get reimbursed by the major medical
4 portion -- a portion of it for what they cover,
5 and they don't cover the same thing.

6 Q. Just say you went to the doctor
7 because you had a head cold or something, do you
8 have a copay or do you actually have to pay that
9 all yourself?

10 A. I have to pay it all, and they
11 don't reimburse that.

12 Q. Do you have access to military
13 doctors while you are over there?

14 A. No, sir.

15 Q. Well, does your company have a
16 doctor over there?

17 A. They have medics over there. They
18 don't prescribe medicine or anything. What they
19 do is they look at you and say whether or not
20 you are fit for work and if you are, you work.
21 And if you're very ill, then they will send you
22 to a military doctor to look at you and decide
23 whether or not you can stay or you have to go

210

1 home for treatment. They won't treat you over
2 there.

3 Q. Well if you go to the medic, do
4 you have to pay?

5 A. No, sir.

6 Q. If the medic sends you to a
7 military doctor, do you have to pay?

8 A. No, sir.

9 Q. And if they decide you are okay,
10 then you go back to work?

11 A. That's right.

12 Q. If they decide you are not okay,
13 they ship you back to the states?

14 A. That's right.

15 Q. If you come back to the states,
16 are you still an employee of Kellogg, Brown and
17 Root?

18 A. I assume that under Cobra I have a
19 period of time that I can use the insurance --
20 that's an assumption on my part.

21 Q. Are you an employee or an
22 independent contractor with Kellogg?

23 A. I don't know all the legal

211

1 niceties of it. We are actually employees of
2 Service International. Kellogg, Brown and Root
3 hires us and apparently leases us or somehow to
4 this other company in Dubai -- I don't know.

5 Q. Where is it located: Service
6 Employees International?

7 A. Yes, sir. I don't know -- I just
8 don't know.

9 Q. Where is its home office?

10 A. I have no idea, sir. I think it's
11 in Dubai.

12 Q. Who's going to have your personnel
13 file? Do you have a personnel file?

14 A. KBR would have it.

15 Q. Who's going to have a copy of the
16 contract, KBR?

17 A. KBR.

18 Q. So you are hired by KBR and then
19 leased by it to Services International?

20 A. I don't know how it works. I just
21 know that these are the people that pay me and
22 furnish the things like that insurance card.

23 Q. And what about retirement, you say

212

1 you don't have any retirement?

2 A. There is no retirement.

3 Q. Well, have you started an IRA or
4 anything since you have signed on?

5 A. I have not at this point, no, sir.

6 Q. Through all of your other
7 employments with these various public
8 corporations including the water board, did you
9 keep all of your money in so that you have
10 enough time in for retirement?

11 A. No, sir, I didn't.

12 Q. How about the retirement money
13 that was with the water board, is that still in
14 the state system?

15 A. No, sir, it's not.

16 Q. You took it out?

17 A. Yes, sir.

18 Q. So you have no money in
19 retirement?

20 A. That's correct.

21 Q. And you are not contributing any
22 with your new position?

23 A. That's correct.

213

1 Q. And you don't have an IRA. Did
2 you roll over the money you took out?

3 A. No, sir.

4 Q. Why did you take it out?

5 A. To help pay off my house. To pay
6 on it -- I needed to conclude the sale on the
7 house and I used that.

8 Q. What do you mean? Had you sold
9 the house?

10 A. No. I had to -- I was actually in
11 the process of buying it. I had a lease on the
12 house for three years. It's a lease-purchase
13 agreement and I had to act on it.

14 Q. You were leasing the house and
15 then it came up to either buy it or get out?

16 A. Right.

17 Q. So you took your retirement money
18 out to buy the house?

19 A. That's right.

20 Q. Are your salary or income through
21 KBR or Services Employees International, are
22 they credited towards Social Security?

23 A. I don't know -- I don't believe

214

1 they are -- in fact I'm fairly sure they are
2 not.

3 Q. So have we covered the change of
4 income? Any other thing I've missed asking you
5 about the change in your wages from being paid
6 by the board to your new employment?

7 A. Well, like I said this is a
8 temporary job. This is not a permanent job -- I
9 need a job.

10 Q. And you had no difficulty finding
11 jobs in the past, true?

12 A. I wouldn't say that. And of
13 course if there is going to be a problem with my
14 age at this point, I suspect it's not going to
15 get any better.

16 Q. Well, you certainly took all of
17 that into consideration when you elected to
18 leave the employment of the board, didn't you..

19 A. I certainly knew that I was not
20 going to get any younger after I left. On the
21 other hand, I was in a position that I could not
22 stay.

23 Q. You decided you could not stay.

215

1 A. Yeah -- I decided based on the
2 circumstances I was subjected to that I could
3 not stay.

4 Q. Well, the only thing that I
5 remember you testifying about negatively was the
6 situation with the raise.

7 A. Well, I was discriminated against
8 on the promotion.

9 Q. On the promotion. All right and
10 you've got a claim in here for embarrassment and
11 humiliation, severe mental anguish, emotional
12 pain and distress. My understanding is that you
13 have not seen any professional.

14 A. I haven't seen any professional.

15 Q. Doctors, psychiatrist,
16 psychologist, mental health therapist or
17 whatever?

18 A. That's true.

19 Q. Well, tell me what embarrassment,
20 humiliation, severe mental anguish and emotional
21 pain and distress you have suffered as a result
22 of not being promoted?

23 A. Well, it's enough to send me

216

1 halfway across the world into a situation where
2 no man should have to live.

3 Q. Well, tell me how it's affected
4 you. What was embarrassing or humiliating about
5 not being promoted?

6 A. Well, the whole fact that someone
7 puts their whole life and soul into a job, and
8 then someone with no experience in the field is
9 brought in and put ahead of them, that's a good
10 bit of humiliation and embarrassment.

11 Q. Did anybody at the board make fun
12 of, or ridicule or make any jokes about your not
13 being promoted?

14 A. There were comments made,
15 particularly -- they used to have a, what they
16 call a social meeting or something, they would
17 have a cookout and you would go up there and all
18 of the employees would be there and yeah, there
19 was comments made, sure were.

20 Q. Who made what comments?

21 A. I don't know most of the people,
22 because I didn't know most of the people that
23 worked up on that end. I didn't know the

217

1 distribution field crew and so forth.
 2 Q. Well, do they know you?
 3 A. They knew me by my reputation.
 4 They knew me because that was the man that did
 5 not get the job.
 6 Q. Well, what do you claim was said
 7 about you at this social setting?
 8 A. Well, just people pointing and
 9 saying that's him right there, that's the guy.
 10 Q. And you don't know the names of
 11 these people?
 12 A. No, sir, I don't.
 13 Q. And they were that open about it
 14 that they were pointing and saying you were the
 15 man?
 16 A. Yes, sir, they were.
 17 Q. Tell me somebody that was there
 18 the same time you were?
 19 A. Allen Howe was there that day with
 20 me.
 21 Q. Anybody else?
 22 A. I didn't go back after that one
 23 time.

218

1 Q. Anybody there besides Allen?
 2 A. He was the only one that I knew.
 3 Q. Was Martin there?
 4 A. No, sir, he wasn't.
 5 Q. What about Eric that was on the --
 6 A. He would probably have been there,
 7 but I don't recall seeing him there that day.
 8 Q. Have we covered all of your
 9 damages? Is there any other way you claim you
 10 have been damaged?
 11 A. I think that covers most of it.
 12 Q. One comment you did make about
 13 being shot at, have you actually been shot at?
 14 A. Yes, sir, I have.
 15 Q. On how many occasions?
 16 A. I have to go to the bunker
 17 sometimes two or three times a week, that's
 18 indirect fire. I have been shot at directly
 19 with AK-47s.
 20 Q. Where were you at that time? Were
 21 you on a military base?
 22 A. Military base, yes, sir.
 23 Q. Was that covered with you when you

219

1 were interviewing for the job?
 2 A. I knew there was a danger of that,
 3 yes, sir.
 4 Q. Do you get any hazardous duty pay
 5 on top of your 65 percent?
 6 A. That 65 percent is the hazardous
 7 duty pay.
 8 Q. Just so I'm clear, the overtime is
 9 based on the regular hourly rate?
 10 A. That's correct.
 11 Q. Not the hourly rate plus the 65
 12 percent?
 13 A. That's correct.
 14 Q. We've covered all of your damages?
 15 A. I think we've covered all of the
 16 damages.
 17 MR. MORGAN: If y'all can give
 18 me about five minutes, I think I'm about
 19 through.
 20 3:04 PM
 21 (Short break.)
 22 3:11 PM
 23 Q. (Mr. Morgan) During the time that

220

1 you were in Houston when you interviewed for the
 2 job, accepted it, going through your orientation
 3 and all, between then and when you wrote a
 4 letter to the board advising the board that you
 5 were resigning, did you have any conversations
 6 with any board employees while you were out
 7 there in Houston?
 8 A. I don't believe I did, no, sir.
 9 Q. Now after you wrote your letter to
 10 the board resigning, did you have any
 11 conversations with anybody -- have you had any
 12 conversations with any employees of the board or
 13 Scott since you resigned?
 14 A. No, sir.
 15 Q. You haven't seen anybody since you
 16 left to go?
 17 A. No, sir.
 18 Q. Just cut all ties?
 19 A. Yes, sir.
 20 Q. Okay.
 21 MR. MORGAN: No questions.
 22 MR. COOKS: One question.
 23

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1 EXAMINATION BY MR. COOKS:

2 Q. We are going to mark this as
3 Plaintiff's Exhibit No. 1.

4 (WHEREUPON, a document was
5 marked as Plaintiff's Exhibit No.
6 1 and is attached to the original
7 transcript.)

8 MR. COOKS: We don't have a
9 copy, but this is the letter with a note on it.

10 MR. MORGAN: Okay.

11 Q. (Mr. Cooks) Mr. Lacey, take a
12 moment and look at this and let me know when you
13 are done.

14 A. Okay.

15 Q. Is this the letter you sent to
16 Scott Cummings?

17 A. Yes, sir.

18 Q. Informing him that you were
19 resigning from the water board?

20 A. Yes, sir.

21 Q. Do you see these comments here at
22 the bottom?

23 A. I see them now.

222

1 Q. Did you know that at the time or
2 before you wrote this letter, did you know about
3 these comments?

4 A. No, sir.

5 Q. Prior to today did you know about
6 these comments here at the bottom?

7 A. No, sir.

8 Q. Did you know that you were
9 considered terminated when you wrote this letter
10 that you had been terminated?

11 A. No, sir, I wasn't aware of that.

12 Q. Okay.

13 MR. COOKS: That's all the
14 questions we have.

15
16 EXAMINATION BY MR. MORGAN:

17 Q. Well, you got a rule book didn't
18 you when you were employed with the board?

19 A. I believe I did, yes, sir.

20 Q. And didn't the rule book state
21 that if you didn't show up for work for three
22 days that you were considered terminated?

23 A. I don't believe it says that. It

223

1 might say that now, I don't believe it said that
2 when I received my rule book. And I don't
3 believe that -- I don't believe there was three
4 days.

5 Q. Whether or not when this letter
6 arrived the city had considered you as being
7 terminated for not complying with that rule or
8 not, when you wrote this letter, which I think
9 was actually mailed on July the 19th, you were
10 resigning from the board, were you not?

11 A. That's true. I don't believe that
12 that three day has ever been -- well, I'm not
13 aware of it being endorsed. I do know that we
14 had several gentlemen at the water treatment
15 plant that left for more than three days at a
16 time without calling in or coming in, and they
17 were allowed to return to work.

18 Q. Who is that?

19 A. I cannot remember. They were the
20 two maintenance men, and I don't remember their
21 names right now.

22 Q. Well, whether the board terminated
23 you or you resigned from the board, as I

224

1 understand what we've talked about your lawsuit
2 is that you didn't get promoted because of your
3 age, true?

4 A. That and the fact that I was
5 discriminated against, yes.

6 Q. As a result of not being promoted?

7 A. Yes, sir, as a result of me not
8 being promoted directly or indirectly.

9 Q. Okay.

10 MR. MORGAN: I mean, we are
11 not litigating whether he was terminated or
12 resigned from the board is what I understand,
13 true?

14 MR. WINSTON: I think it's
15 true, but I think it goes to -- if he's
16 terminated, it's my understanding when we get
17 into their depositions to see, then he's not
18 eligible for rehire, but that's something we can
19 figure out with them.

20 MR. MORGAN: If we are going
21 to open up this, I need to know about it.
22 Because it's my understanding of this lawsuit is
23 that he didn't get promoted because of his age.

225

MR. WINSTON: That's true.

But the result in damages, you know.

MR. MORGAN: You are saying a damage of that may be that he's not eligible for rehire.

MR. WINSTON: Yeah.

MR. MORGAN: You are not making an independent claim for the resignation.

MR. COOKS: No, not for the resignation.

MR. MORGAN: Or the termination, whichever one occurred first.

MR. COOKS: We hate to stipulate that.

MR. MORGAN: Well, let's do because I don't want to have to get him back over here from Iraq. Obviously, you know everything he's said is he's complaining about his promotion. I mean, if you are telling me this is an element of damage that's one thing, but if you are telling me whether or not he resigned or terminated from the board, then that in effect being the same as a separate cause of

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action and it's not in the complaint.

MR. WINSTON: Can we take a quick break and we can talk to our client. I don't think he realized he was terminated.

3:17 PM

(Short break.)

3:17 PM

MR. WINSTON: It's not a separate claim.

MR. COOKS: No retaliatory discharge.

MR. MORGAN: No retaliatory discharge. We agree that it's not a separate claim. To the extent that Plaintiff's Exhibit No. 1 is relevant y'all are submitting its relevancy based on a possible element of damages, true?

MR. COOKS: That's true.

Q. (Mr. Morgan) Do you have any diaries or calendars that you've kept from say January 1, 2005 through January 30, 2007 dealing with any of your complaints in this lawsuit, marked them on any calendars, marked them on any

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1 diaries, made any notes?

A. No, sir.

Q. Some people write things on calendars or computer calendars, there are no such notes?

A. No, sir.

Q. Any correspondence that you have, do you have any correspondence with the city or the water board relating to your employment, promotion, job complaints, termination or resignation?

A. No, sir.

Q. You told me about the e-mail that Nell sent you?

A. I don't have that e-mail. It was on my computer account here where I worked. I don't have it since I left.

Q. So there are no diaries, no calendars, no correspondence that you have with the board or any board employee?

A. No, sir.

MR. MORGAN: All right.

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3:18 PM

FURTHER DEPONENT SAITH NOT

C E R T I F I C A T E

STATE OF ALABAMA)

MONTGOMERY COUNTY)

I hereby certify that the above and
foregoing deposition was taken down by me in
stenotype, and the questions and answers thereto
were transcribed by means of computer-aided
transcription, and that the foregoing represents
a true and correct transcript of the deposition
given by said witness upon said hearing.

I further certify that I am neither of
counsel nor of kin to the parties to the action,
nor am I in anywise interested in the result of
said cause.

SELAH M. DRYER, CSR

My Commission Expires
June 30, 2010

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| <p>week (27:22) (27:23) (28:3) (28:14) (105:10) (112:16) (201:18) (201:19) (204:10) (204:11) (204:12) (218:17)</p> <p>weekly (76:1)</p> <p>weeks (27:20) (103:22) (129:19)</p> <p>welfare (144:6)</p> <p>we'll (111:7)</p> <p>well-discussed (167:22)</p> <p>wells (50:20) (63:17)</p> <p>were the (120:8)</p> <p>west (72:5) (72:6)</p> <p>we've (70:9) (111:23) (194:12) (219:14) (219:15) (224:1)</p> <p>whatever (64:21) (65:21) (97:18) (112:11) (118:7) (119:4) (122:13) (124:8) (215:17)</p> <p>whenever (99:23)</p> <p>whereas (32:2) (124:3)</p> <p>whereupon (6:11) (208:11) (221:4)</p> <p>wherever (75:3) (75:11) (75:12) (77:1) (77:3) (77:20) (78:11) (109:1) (125:9)</p> <p>whether (50:2) (50:3) (100:13) (103:1) (115:2) (119:11) (132:16) (137:5) (149:11) (159:14) (209:19) (209:23) (223:5) (223:22) (224:11) (225:21)</p> <p>whichever (225:12)</p> <p>white (139:19) (139:20) (141:9)</p> <p>whoever (98:12) (102:22)</p> <p>whole (53:4) (65:20) (68:6) (73:15) (158:22) (216:6) (216:7)</p> <p>who's (50:6) (122:4) (183:14) (207:18) (211:12) (211:15)</p> <p>whose (105:22) (173:3)</p> <p>wide (193:9)</p> <p>willing (158:4) (158:6)</p> <p>wind (34:23)</p> <p>winston (5:4) (5:5) (224:14) (225:1) (225:6) (226:2) (226:8)</p> <p>winter (90:15)</p> <p>wireless (182:18) (182:19)</p> <p>wished (158:16) (161:12)</p> <p>with the (190:20)</p> <p>without (78:22) (82:18) (147:15) (178:8) (193:7) (223:16)</p> <p>witness (2:12) (6:10) (80:6) (229:11)</p> <p>won't (210:1)</p> <p>word (76:20) (151:12)</p> <p>words (152:11)</p> <p>wore (140:16)</p> <p>work (17:11) (25:14) (25:17) (25:20) (26:15) (26:19) (33:5) (34:17) (36:14) (36:18) (40:6) (41:22) (42:3) (42:19) (62:10) (68:3) (94:19) (94:23) (101:5) (105:7) (105:16) (105:20) (106:11) (107:20) (122:8) (122:12) (122:17) (122:18) (127:10) (127:18) (128:17) (134:22) (135:2) (135:20) (138:3) (138:17) (143:11) (145:17) (148:14) (150:11) (151:21) (161:2) (162:5) (163:22) (166:14) (167:4) (168:10) (172:4) (176:2) (177:18) (177:23) (183:19) (190:12) (194:4) (196:13) (201:18) (204:9) (204:12) (209:20) (210:10) (222:21) (223:17)</p> <p>worked (17:18) (18:23) (20:18) (24:16) (35:9) (37:5) (37:7) (38:4) (39:14) (41:6) (43:15) (51:8) (57:6) (68:12) (95:1) (117:16) (117:21) (124:2) (124:3) (124:9) (125:8) (131:21) (138:4) (138:6) (138:9) (146:17) (147:3) (151:7) (151:8) (151:10) (161:18) (163:1) (167:20) (169:3) (169:7) (177:8) (192:13) (193:6) (193:9) (193:15) (193:17) (216:23) (227:16)</p> <p>worker's (17:9) (17:12) (17:22)</p> <p>working (17:15) (17:21) (26:14) (26:22) (27:12) (87:10) (90:13) (93:22) (95:8) (95:10) (97:3) (105:10) (106:12) (114:4) (117:17) (137:6) (138:20) (151:1) (156:19) (158:3) (165:14) (167:1) (179:22) (182:7) (182:21) (195:18) (203:22) (205:1)</p> <p>workman's (17:10)</p> <p>works (131:3) (131:16) (211:20)</p> <p>world (199:20) (216:1)</p> <p>worry (6:22) (47:5)</p> <p>wouldn't (31:4) (47:15) (109:3) (119:20) (119:22) (120:13) (174:2) (175:9) (176:16) (177:9) (214:12)</p> <p>wound (161:10)</p> <p>wreck (17:1)</p> <p>write (227:3)</p> <p>write-ups (143:14)</p> <p>written (22:6) (22:8) (22:16) (22:17) (22:19) (25:8) (80:23) (82:18) (84:6) (84:9) (206:10)</p> <p>wrong (38:3)</p> | <p>wronged (16:17)</p> <p>wrote (220:3) (220:9) (222:2) (222:9) (223:8)</p> <p>Y</p> <p>y'all (8:18) (15:18) (47:5) (54:10) (66:5) (68:6) (68:9) (70:23) (72:23) (73:22) (125:19) (156:15) (158:18) (163:2) (165:8) (178:18) (185:8) (208:18) (219:17) (226:15)</p> <p>y'all's (152:2) (184:3)</p> <p>year (12:17) (45:1) (45:15) (53:15) (70:4) (99:18) (108:16) (197:14) (203:22) (204:8) (206:1) (206:14) (206:18) (206:20) (206:22)</p> <p>years (8:18) (11:17) (12:5) (12:13) (21:5) (22:4) (35:14) (38:15) (40:5) (74:9) (94:10) (117:22) (138:4) (213:12)</p> <p>yesterday (74:7)</p> <p>yet (203:19)</p> <p>younger (131:13) (133:14) (139:16) (140:21) (152:5) (152:9) (152:19) (153:12) (153:15) (155:3) (155:12) (165:14) (166:19) (167:1) (169:8) (186:3) (186:18) (187:12) (214:20)</p> <p>yours (31:23) (80:14)</p> <p>yourself (16:13) (36:19) (100:19) (122:12) (209:9)</p> | |

EXHIBIT 3

RESUME' of
Norman E. Lacey
5508 16th Avenue
Valley, AL 36854
(706) 518-4809

- Qualifications: Thirty -three years responsible experience in the water and wastewater industry.
- Experience in management, budgeting, accounting and operation water and wastewater facilities for both publicly and privately owned companies.
- Associate degree in water and wastewater management.
- Certified by the Alabama Department of Environmental Management as a Grade 4 water plant operator.
- Certified by the Alabama Department of Environmental Management as a Grade 4 wastewater plant operator.
- Certified by the Alabama Plumbers and Gas Fitters Examining Board as a master plumber and gas fitter.
- Completed course in electrical motor controls and instrumentation.
- Completed course in cross connection control and testing of backflow prevention devices.
- Completed course in personal computer and have had 15 years experience with personal computers, local area networks, and a wide variety of software.
- Certified by the State of Alabama as a firefighter and first responder.
- Experience: August, 1999 to Present --Shift operator at the City of Auburn Surface Water Treatment Plant. Recently promoted to chief operator.
- February, 1995 to February, 1999 -- Project manager for Professional Services Group, Inc. in Demopolis , Alabama. Professional Services Group operates the entire water and wastewater system for the Water Works and Sewer Board of Demopolis under a contractual agreement. Services provided include water production and distribution, meter reading, billing, collecting, accounting, wastewater collection system, and wastewater treatment. As project manager, I am responsible for insuring the services provided meet, or exceed contract specifications.
- January 1992 to January 1995 -- Plant manager of the Jackson, Alabama treatment plant. My responsibilities at this position included scheduling shifts workers and assigning duties to shift workers. I made decisions as to the water source or sources to be used in the process. (Jackson has a large spring as well as the Tombigbee River available to provide water for the area.) Chemical selection, preventative and corrective maintenance, budgeting, accounting, and reporting to state and federal agencies were also part of my duties. Operating the plant when a shift operator was unavailable was also part of my routine duties. When I began my employment at this facility, it was as an employee of the City of Jackson. On May 1, 1994, the operation of the water and wastewater system was contracted to Professional Services Group, Inc. and I continued my employment at the facility until I was promoted to the Demopolis project.
- May 1984 to December 1991 -- I was employed as general manager of Mobile County Water, Sewer and Fire Protection Authority . I was responsible for insuring the entire

operation of the Authority under the policies of the board of directors. This included such office duties as insuring customer relations, customer billing, accounting, maintenance of a personal computer network, and administering contracts. I also reported to the board, to state and federal agencies, to bond holders and to various other concerned agencies as required. Outside of the office, I was required to supervise field operations. In addition, I designed, constructed and maintained the electrical and instrumentation systems.

January 1979 to May 1984 -- I was employed as superintendent of Lake Forest Utilities (now owned by the City of Daphne, Alabama). My responsibilities included the following: organizing, planning, budgeting, managing, and policy making for the water and wastewater privately owned utility company. Also included were establishing office filing reports to appropriate local, state and federal agencies, planning and managing a water resource development program, supervision of office personnel, reviewing engineering plans.

June 1976 to January 1979 -- I was employed as sewer superintendent for the city of Saraland, Alabama. My responsibilities included operating and maintaining the wastewater treatment plant, sewer lift stations and sewer mains, inspecting renovation of the treatment plant, developing procedures and policies for the sewer department, designing, constructing and installing electrical control panels, budgeting and planning for the department, supervising field personnel, participating in the 208 Study for Mobile County, record keeping and reporting to state and federal agencies, and advising

May 1971 to June 1976 -- I was employed as a plant operator for the Mobile Water Service System. My responsibilities included shift operator and shift supervisor at both water and wastewater treatment plants, operating, and maintaining facilities, sampling, record keeping, and supervising shift personnel.

Education: Associate degree in water and wastewater management from Faulkner State Junior College in Bay Minette, Alabama.

Attended the University of South Alabama and studied civil engineering with emphasis in environmental engineering.

Military: May 1968 to November 1970 -- Completed U.S. Army training at Infantry Officer's Candidate School. Attended United States Military Academy. Rank at discharge was First Lieutenant and my military occupational specialty was infantry unit commander.

Wastewater Operator Certificate

Water and Wastewater Certification

Be it known that

Norman E Lacey

having submitted satisfactory evidence of knowledge, experience, and qualifications to the Operator Certification Program of the Alabama Department of Environmental Management is hereby granted this grade IV certificate of competency to be effective this 30th day of September 1996

Charles T. Shum

ADEM - WATER DIVISION

Certificate Ren. 7710 Operator No. 418662239 Expiration Date 09/30/1999

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Water and Wastewater Certification

Norman E. Lacey

Charles F. Horn

Certificate Ren. 10677 Operator No. 418662239 Expiration Date 09/30/1999

EXHIBIT 4

CITY OF AUBURN EMPLOYMENT APPLICATION

City of Auburn



The City of Auburn is an Equal Opportunity Employer. It is our policy to provide equal employment opportunities for all individuals without regard to race, sex, age, religion, color, national origin, disability, or veteran status.

PRINT IN INK OR TYPE. COMPLETE CAREFULLY & IN FULL

| | | | | | | |
|--|--|---------------|--------|---|----------------------|---|
| NAME | LAST | FIRST | MIDDLE | SOCIAL SECURITY # | DAYTIME PHONE | TYPE OF EMPLOYMENT DESIRED |
| LACEY, NORMAN | EUGENE | | | 418-66-2239 | (334) 289-0992 | Regular <input checked="" type="checkbox"/> Full Time <input type="checkbox"/> Part Time (less than 40) |
| PRESENT ADDRESS | STREET | CITY | STATE | ZIP CODE | JOB APPLYING FOR | |
| 204 N. COMMISSION ST. | | DEMOPOLIS, AL | 36132 | 4126199 | WATER PLANT OPERATOR | |
| OTHER NAMES PREVIOUSLY USED UNDER WHICH RECORDS MAY BE LOCATED | HAVE YOU REVIEWED THE JOB DESCRIPTION? <input checked="" type="checkbox"/> YES <input type="checkbox"/> NO | | | | | |
| EDUCATION | NAME OF SCHOOL | | | CIRCLE YEAR COMPLETED | MAJOR | GRADUATE YES/NO |
| HIGH SCHOOL | C.F. VICKS HIGH, PULHAR, AL | | | 8 9 10 11 12 GED | | DEGREE OBTAINED |
| COLLEGE | Faulkner Junior College | | | FR <input checked="" type="checkbox"/> JR <input type="checkbox"/> SR | ENVRN. MGMT. | HIGH SCHOOL ASSOCIATE DEGREE |
| GRAD OR VOC SCHOOL | | | | | | |

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| EMPLOYMENT DATES | | HOURS PER WEEK | NAME OF ORGANIZATION AND PHONE NUMBER | ORGANIZATION ADDRESS | POSITION HELD | IMMEDIATE SUPERVISOR | SALARY | REASON FOR LEAVING |
|------------------|-------|----------------|--|---------------------------------------|-----------------|----------------------|----------|-------------------------------------|
| 2/95 | 2/99 | 40+ | PROFESSIONAL SERVICES GROUP | 2101 WATER AVE DEMOPOLIS, AL 36132 | PROJECT MANAGER | TECH DIRECTOR | 45.00/hr | LIVED IN BECAUSE OF PROJECT CLOSING |
| 1/92 | 2/95 | 40+ | CITY OF JACKSON, ALABAMA Phone (334) 246-2900 | COMMERCIAL JACKSON, AL | PLANT MANAGER | DOWN | | |
| 5/84 | 12/91 | 40+ | MOBILE COUNTRYWIDE Phone (334) 653-5040 | HWY 98, WEST THEODORE, AL | MANAGER | | | |
| 1/16 | 5/84 | 40+ | LAKE FOREST UTILITIES Phone () | DANNING, ALA | SUPERINTENDING | | | |

MAY WE CONTACT THE EMPLOYERS LISTED ABOVE? ☒ YES ☐ NO IF NOT PLEASE INDICATE WHICH ONE(S) YOU DO NOT WANT US TO CONTACT.

BRIEFLY DESCRIBE MAJOR DUTIES OF POSITIONS PREVIOUSLY HELD AND FURTHER DETAILS OF QUALIFICATIONS

I HAVE HAD WORK AND WASTEWATER TREATMENT, INCLUDING DAILY SYSTEM OPERATIONS, TO STATE AND FEDERAL AGENCIES, MAINTAINING AND OPERATING A AND PEOPLES.

OTHER INFORMATION AND SKILLS

LICENSES AND CERTIFICATIONS

GRADE 4 WATER OPERATOR, GRADE 4 WASTEWATER OPER., MASTER PLUMBER

DRIVER'S LICENSE NUMBER AND STATE 2537095 - ALABAMA

SHOP & OUTDOOR EQUIPMENT USED

FOOTLOCK, BACKHOLE, TREBUCHET, ETC.

OTHER EQUIPMENT SKILLS OR ABILITIES

Mr. Lacey is staying at the Quality Inn - he is moving to Demopolis. He has been working for the City of Auburn for 10 years. He is a very hard worker and is very dedicated to his job. He is a very good person to have on your team. He is a very good person to have on your team. He is a very good person to have on your team.

EXHIBIT 5



HOME OF AUBURN UNIVERSITY

Date: September 3, 1999
To: Norman Lacey, Water Board
From: Sonia Sons^u, Personnel Specialist
RE: New Employee Orientation Session

I hope you're enjoying your new position as a Regular employee with the City of Auburn. In an effort to help acquaint you with the benefits of being a City employee and also to explain some of the rules and procedures of the organization, you have been scheduled to attend the New Employee Orientation Session. The orientation will be held on Thursday, **September 30, 1999 at 2:00 p.m. in the Library Conference Room**. Please make the necessary arrangements with your supervisor. Attendance is **mandatory** for all regular employees.

If you find you will not be able to attend this session, please contact me at extension 2965, no later than September 27th. However, it has been several months since the last orientation session was held, due to the filming of a new orientation video. Employees who have been with us for some time are *strongly encouraged to work this session into their schedules*. If you have any questions about the orientation, feel free to give me a call. I look forward to seeing you on the 30th!

cc: Department Head
Human Resource Management Director
Personnel File

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HOME OF AUBURN UNIVERSITY

August 12, 1999

Norman Lacey
2204 Rocky Brook Road
Opelika, AL 36801

Dear Norman:

Welcome Aboard! We're glad to have you working with the City. I and my staff, Pam Hubbard, Payroll Officer; Sonia Sons, Personnel Specialist; Donna Milam, Administrative Secretary; and D'Arcy Wernette, Risk Manager will be glad to assist you in anyway we can. If you have any questions, please don't hesitate to ask. We look forward to working with you.

Sincerely,



Steven A. Reeves, Director
Human Resource Management

SAR/ss

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EXHIBIT 6

KLAIS & COMPANY, INC.

EMPLOYEE BENEFIT CONSULTANTS, ACTUARIES AND ADMINISTRATORS

ENROLLMENT FORM

EMPLOYER INFORMATION

| | | | |
|----------------------------------|---|---|---|
| Group Number 724 | Name of Employer City Of Auburn | Location Code 998 | PPO Selected (if applicable) |
| Date Employed 8-2-99 | Current Effective Date 12-1-99 | Original Effective Date Under Prior Plan | No. of Hours Worked Per Week 40 |
| Annual Earnings 22,090 | | | |

Check One:

☒ New Hire **8-2-99** ☐ Rehire ☐ Other

☐ Part-Time to Full-Time ☐ Return From Layoff

☐ Return From Leave Of Absence ☐ Involuntary Loss Of Other Coverage

Comments:

EMPLOYEE INFORMATION

THE HEALTH INSURANCE PORTABILITY AND ACCOUNTABILITY ACT OF 1996 - IF YOU WERE PREVIOUSLY COVERED UNDER A HEALTH PLAN WITH A COORDINATING DAY FROM YOUR CURRENT DATE OF HIRE, YOUR PRE-EXISTING EXCLUSION PERIOD MAY BE REDUCED. ATTACH A CERTIFICATE OF CREDITABLE COVERAGE IF APPLICABLE.

CERTIFICATE ATTACHED ☐ YES ☐ NO

| | | | | |
|---|------------------------------|-------------------------------------|---|---|
| Last Name Lacey | First Name Norman | Initial E. | Date of Birth Mo 8 Day 10 Year 48 | Sex <input checked="" type="checkbox"/> Male <input type="checkbox"/> Female |
| Number 2304 | Street Rocky Brook | City Opelika | State AL | Zip Code 36801 |
| Social Security Number 418-66-0892 | | Phone Number 334-741-7796 | | |
| <input type="checkbox"/> Single <input type="checkbox"/> Married <input type="checkbox"/> Divorced <input type="checkbox"/> Widowed | | | | |

IF APPLICABLE TO YOUR EMPLOYER'S BENEFIT PLAN, INDICATE THE BENEFIT(S) YOU ARE APPLYING FOR OR WAIVING.

| I ELECT | | I "DO NOT" ELECT |
|--------------------------|--------------------------|--|
| Single | Family | <input checked="" type="checkbox"/> ref If you are waiving coverage because you are covered by another health plan, please complete the OTHER HEALTH COVERAGE INFORMATION section below. |
| <input type="checkbox"/> | <input type="checkbox"/> | |
| <input type="checkbox"/> | <input type="checkbox"/> | |
| <input type="checkbox"/> | <input type="checkbox"/> | |
| <input type="checkbox"/> | <input type="checkbox"/> | |
| <input type="checkbox"/> | <input type="checkbox"/> | |

I HEREBY WAIVE ALL COVERAGE

IF APPLYING FOR FAMILY COVERAGE, LIST BELOW SPOUSE AND ALL UNMARRIED DEPENDENT CHILDREN TO BE COVERED. DOCUMENTS VERIFYING DEPENDENT'S ELIGIBILITY WILL BE REQUIRED.

TO BE COMPLETED BY EMPLOYER

| NAME | SEX | DATE OF BIRTH | RELATIONSHIP | Social Security Number | Covered Under Prior Plan (Y/N) | Original Date Of Coverage |
|------------------------|--------------|---------------------|-------------------|------------------------|--------------------------------|---------------------------|
| First | M / F | Mo. Day Yr. | | | | |
| Sheila H. | F | 12 5 51 | Spouse | | | |
| Lori K. | F | 11 12 79 | Daug | | | |
| Jennifer D. | F | 9 21 84 | Daug | | | |
| | | | | | | |
| | | | | | | |
| | | | | | | |

Do you, your spouse, or dependents have any other health care coverage?

☐ Yes ☐ No

OTHER HEALTH COVERAGE INFORMATION

IF "YES", LIST BELOW WHO IS COVERED, THEIR RELATIONSHIP, AND THE NAME OF OTHER INSURANCE COMPANY

| NAME | RELATIONSHIP | INSURANCE COMPANY |
|-------|--------------|-------------------|
| First | | |
| | | |
| | | |
| | | |
| | | |

Is your spouse employed? ☐ Yes ☐ No

Spouse employed by (Employer's name and address):

I WISH TO APPLY FOR ALL COVERAGES EXCEPT THOSE WAIVED ABOVE. I AUTHORIZE DEDUCTIONS, IF ANY, FROM MY COMPENSATION FOR MY SHARE OF THE COST OF THE COVERAGES TO WHICH I BECOME ENTITLED UNDER THE GROUP POLICY OR POLICIES OF MY EMPLOYER.

I UNDERSTAND THAT IF I DESIRE TO OBTAIN ANY COVERAGE(S) I HAVE WAIVED, MY PLAN MAY RESTRICT OR PROHIBIT ME FROM OBTAINING COVERAGE AS A LATE ENROLLEE. FEDERAL REGULATION PERMITS LATE ENROLLMENT TO BE LIMITED TO INVOLUNTARY LOSS OF OTHER COVERAGE OR TO THE ADDITION OF A SPOUSE, NEWBORN CHILD OR ADOPTED CHILD. AS A LATE ENROLLEE, I MAY BE SUBJECT TO A LONGER PRE-EXISTING CONDITION EXCLUSION PERIOD AND I MAY BE REQUIRED TO FURNISH EVIDENCE OF INSURABILITY SATISFACTORY TO AND APPROVED BY THE PLAN SPONSOR, AND/OR BE SUBJECT TO ANY OTHER PROVISIONS WHICH MAY APPLY.

[Signature]

EMPLOYEE SIGNATURE

8/2/99

DATE

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Group Enrollment Form

Group Policy #

28439

| | | | | | |
|--|----------------------------|---|---|--|---|
| Company Name City Of Auburn | | Employee's Full Legal Name (Last, First, M.I.) Lacey, Norman E. | | Date of Birth 8-10-48 | Social Security No. 418-66-0892 |
| Gender <input checked="" type="checkbox"/> M <input type="checkbox"/> F | Marital Status M | Date of Employment/Rehire 8-2-99 | Occupation (Title) Plant Operator | Current Active Employment Type Full Time <input checked="" type="checkbox"/> Part Time <input type="checkbox"/> | Basic Monthly Earnings \$1841 |

You must elect or refuse insurance coverage below within 31 days of your date of eligibility by placing a check mark in the appropriate box. All of the insurance coverage listed below may not be available to you; check with your employer.

Your employer will tell you which benefits are available:

| | |
|--------------------------------|--|
| Basic Life coverage | <input type="checkbox"/> I Elect <input type="checkbox"/> I Refuse |
| AD&D coverage | <input type="checkbox"/> I Elect <input type="checkbox"/> I Refuse |
| Dependent Life coverage | <input type="checkbox"/> I Elect <input type="checkbox"/> I Refuse |
| Short Term Disability coverage | <input type="checkbox"/> I Elect <input type="checkbox"/> I Refuse |
| Long Term Disability coverage | <input type="checkbox"/> I Elect <input type="checkbox"/> I Refuse |

Optional Life coverage

If available, use the *Sun Life Optional Life Enrollment Form* to elect or refuse Optional Life coverage. This form is also used to designate beneficiaries for Optional Life coverage.

See your employer for details.

Beneficiary designation for Life Insurance ONLY — See instructions on cover page. On the lines directly below, list the individual(s) that you want to receive proceeds in the event of your death. You may specify as many individuals as you would like, but the total proceeds must equal 100%. This is your primary beneficiary. Attach additional pages if necessary.

| Primary Beneficiary(ies): (Last, First, M.I.) | Relationship to employee | Percent share of proceeds (must equal 100%) |
|---|--------------------------|---|
| JENNIFER LACEY, JENNIFER D. | DAUGHTER | 100 % 100 |
| | | % |
| | | % |
| | | % = 100% |

On these lines directly below, list the individual(s) who should receive proceeds ONLY if ALL of the individuals listed above are not living at the time of your death. This is your secondary or contingent beneficiary. They are not paid if anyone listed above is alive when you die. Attach additional pages if needed.

| Secondary Beneficiary(ies): (Last, First, M.I.) | Relationship to employee | Percent share of proceeds (must equal 100%) |
|---|--------------------------|---|
| | | % |
| | | % |
| | | % |
| | | % = 100% |

NOTE: Medical Evidence of Insurability will be required for any employee who applies for coverage more than 31 days past his/her eligibility date and later requests to be covered. Medical Evidence of Insurability is obtained at the employee's expense.

FRAUD WARNING: Please read the fraud warning on the reverse side of this form.

By signing below, you are verifying that the information you have provided is true and correct, and that you have read and understand the fraud warning on the reverse side.

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Employee Signature

8/2/99
Today's Date

You must sign and date this form to become covered.

GP 18/645

White Copy: Employer keeps with employee records

Yellow Copy: Employee keeps

3/98 SLPC 3830

ERS Form 100
9/04

EF 100N

**ENROLLMENT FORM
MEMBER INFORMATION RECORD**Employees' Retirement System of Alabama
P. O. Box 302150 • Montgomery, Alabama 36130-2150
(334) 832-4140 or 1-800-214-2158
Web site: www.rsa.state.al.us

FOR EMPLOYEES' RETIREMENT SYSTEM USE ONLY

Comments: _____

Check One:

- ☐
- New Member
-
- ☐
- Transfer from another ERS Agency

Please Print; No Initials

Name: Lacey Norman Ebene
Last First Middle Given MaidenSocial Security Number: 418 - 666 - 2239 Sex: ☒ Male ☐ Female Status: ☐ Married ☐ Widowed
☒ Single ☐ DivorcedDate of Birth: 8 / 10 / 48Address: 5508 116th Avenue Valley AL 36054
Street or P. O. Box City State ZipName of Spouse: _____ Spouse's Date of Birth: 1 / 1
Last First Middle GivenClassification or title of position or elected office you hold: Water Plant OperatorEmploying Agency: City of Auburn Section or Division: Water Board

Are you an Elected Official?

☐ Yes ☒ No

Have you ever been employed by any agency of public education in Alabama?

☐ Yes ☒ No

Have you ever been a member of the Employees' Retirement System of Alabama?

☐ Yes ☒ No

Were you a member before beginning employment with your current employer?

☐ Yes ☒ No

Have you ever withdraw contributions from the Retirement Systems?

☐ Yes ☒ No

If you answered yes to any of the preceding four questions, please provide the information requested below, listing most recent employment first.

| Employing Agency | City | Year | Under What Name | Date Terminated |
|------------------|------|------|-----------------|-----------------|
| | | | | |
| | | | | |
| | | | | |
| | | | | |

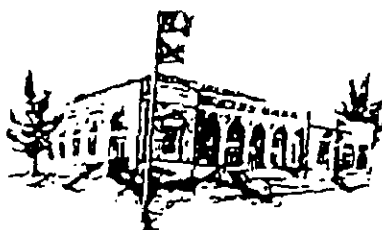
I certify that I am not presently a contributing member of any other state supported retirement plan in Alabama and have completed to the best of my knowledge and belief all statements and answers printed herein.

Signature of Member: R. E. L. Date: 3/4/2005

TO BE COMPLETED BY EMPLOYING AGENCY

Employing Agency: City of AuburnDate of Employment: 8/2/99 Annual Salary: \$30,943.00Number of Pay Periods Per Year: 26 Employment Status (full-time, 1/2 time, 1/3 time, etc.): Full TimeEmployer Signature: Michael J. Ward Date Submitted: 3/4/05Title: Payroll/Benefits CoordinatorLacey v. City of Auburn
0133

EXHIBIT 7



City of Auburn

Home of Auburn University

CURRENT JOB VACANCIES

As of January 9, 2006

THIS IS IN ADDITION TO THE
JANUARY 2006 VACANCY ANNOUNCEMENT

HUMAN RESOURCES DEPARTMENT

Applicants have the responsibility of being familiar with the job specifications and/or job requirements. Applications will only be accepted for current vacancies. For updated job opportunities, call the City of Auburn Job Line at (334) 501-7250 or visit our website at www.auburnalabama.org.

Current City employees may apply directly to the Human Resources Department.

Applicants must apply through the Alabama State Employment Service, 2300 Frederick Road, Opelika, Alabama, 36801...(334) 749-5065.

Pay ranges shown indicate starting pay dependent on qualifications.

Current positions and closing application dates are:

Director of Industrial Recruitment **Open until filled**
(Regular/Full-time, Monthly Salary Up to \$7,083.33 Depending on Qualifications)

Water Distribution Manager **Open until filled**
(Regular/Full-time, \$3,585.06 – 4,280.75/Month)

Utility Billing Specialist **Open until filled**
(Regular/Full-time, \$2,414.98 – 2,883.62/Month)

Class specifications for these positions are posted for your review at the Alabama State Employment Service or the Human Resources Department. The City of Auburn is an equal opportunity employer. We provide equal opportunity and equal treatment without regard to race, religion, sex, national origin, citizenship, age or disability. Minorities and women are encouraged to apply. Accommodation considered. The City of Auburn is a smoke-free environment.

All applicants tentatively selected for this position will be required to submit to a drug screen for illegal drug use and a background investigation prior to appointment. Final appointment to the position is contingent upon a negative drug test result and an acceptable background investigation.

Stephanie L. King

Human Resources Generalist

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0035

EXHIBIT 8

OPELIKA-AUBURN NEWS

SUNDAY, JANUARY 22, 2006



City of Auburn

The City of Auburn is currently accepting applications for the following regular, full-time positions. Starting pay or pay ranges are listed below.

Plan Review Coordinator-Public Works (\$4,368.04-5,215.67/Month)

Water Distribution Manager (\$3,585.06-4,280.75/Month)

The City of Auburn provides an excellent benefits package.

Applicants may apply through the Alabama State Employment Office. For more information about these vacant positions, please contact the Employment Office at 749-5065.

The City of Auburn is an equal opportunity employer and a drug-free workplace.

EXHIBIT 9

CITY OF AUBURN EMPLOYMENT APPLICATION

PRINT IN INK OR TYPE COMPLETE CAREFULLY & IN FULL
RESUME MAY BE ATTACHED BUT WILL NOT SUBSTITUTE FOR COMPLETION OF APPLICATION



The City of Auburn is an Equal Opportunity Employer. It is our policy to provide equal employment opportunities for all individuals without regard to race, sex, age, religion, color, national origin, disability, or veteran status.

| | | | |
|---|--------------------|--------------------------|---|
| NAME (Last) (First) (Middle) LACEY, NORMAN EUGENE | | | SOCIAL SECURITY NO 418-66-2239 |
| Any other name, such as nicknames, maiden name, or assumed name, needed to verify the contents of this application | | | HOME PHONE (334) 756-7796 |
| ADDRESS (Number and Street) 5508 16th AVENUE | | | ALTERNATE PHONE () |
| CITY VALLEY, AL | STATE AL | ZIP CODE 36354 | E-MAIL ADDRESS nlacey@auburnvalleyal.com |
| POSITION DESIRED WATER DISTRIBUTION MANAGER | | | TYPE OF EMPLOYMENT PREFERRED (please check only one) <input checked="" type="checkbox"/> Regular/Full-Time <input type="checkbox"/> Regular/Part-Time <input type="checkbox"/> Temporary/Full-Time <input type="checkbox"/> Temporary/Part-Time |
| Have you reviewed the job description? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No | | | |
| Have you been previously employed with the City of Auburn? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No If yes, list the dates of employment | | | |
| Title CHIEF OPERATOR Department WATER RESOURCES MANAGEMENT Who was your supervisor? RICH MCCARTY | | | |

| EDUCATION | Circle Year Completed | Major | Are you currently enrolled? | Degree Obtained |
|---|--|------------------------------|---|----------------------------|
| High School VIGOR HIGH, PRICHARD, ALABAMA | Fr So Jr <input checked="" type="radio"/> Sr GED | GENERAL STUDIES | Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> | HIGH SCHOOL DIPLOMA |
| Junior College FAULKNER STATE COMMUNITY COLLEGE | Fr. <input checked="" type="radio"/> So Jr. Sr | ENVIRONMENTAL STUDIES | Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> | ASSOCIATE DEGREE |
| College UNIVERSITY OF SOUTH ALABAMA | Fr. <input checked="" type="radio"/> So Jr. Sr. | CIVIL ENGINEERING | Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> | NONE |
| Graduate or Vocational School | | | Yes <input type="checkbox"/> No <input type="checkbox"/> | |

| EMPLOYMENT HISTORY - List entire employment history, starting with your present employer (attach additional sheets if necessary) | | | |
|---|---|--|--|
| Company Name: AUBURN WATER WORKS | Position: CHIEF OPERATOR | Last Pay Rate: 16.98 / hr | |
| Address: 1501 W. SHERWOOD | Supervisor's name: RICH MCCARTY | Hours Per Week: 40 | |
| City / State / Zip: AUBURN AL 36833 | From: AUG. 1, 1999 | Reason for Leaving: N/A | |
| Phone #: 334-502-7005 | To: PRESENT | | |
| Company Name: PROFESSIONAL SERVICES GROUP | Position: PROJECT MANAGER | Last Pay Rate: \$45.00 / hr | |
| Address: 14950 HEATHMAN FOREST PKY, SUITE 201 | Supervisor's name: JEFF BIRKHEAD | Hours Per Week: 40 | |
| City / State / Zip: HOUSTON, TX 77032 | From: FEB, 1995 | Reason for Leaving: PROJECT CLOSING | |
| Phone #: 713-449-1560 | To: FEB, 1999 | | |
| Company Name: CITY OF JACKSON ALABAMA | Position: PLANT SUPERINTENDENT | Last Pay Rate: \$30.00 / hr | |
| Address: 436 E. MACARTHUR STREET | Supervisor's name: DAVID DEBEVER | Hours Per Week: 40 | |
| City / State / Zip: JACKSON AL 36526 | From: JAN, 1990 | Reason for Leaving: SYSTEM WAS PRIVATIZED | |
| Phone #: 334-246-2395 | To: FEB, 1995 | | |
| May we contact the employers listed above? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No If not, please indicate which one(s) you do not want us to contact | | | |

Briefly describe major duties of positions previously held and further details of qualifications **I HAVE HAD EXPERIENCE IN ALL PHASES OF OPERATION OF WATER AND WASTEWATER SYSTEMS, INCLUDING PLANT OPERATION, DISTRIBUTION, SYSTEM REPAIR, METER READING, STAFFING AND REPORTING TO REGULATORY AGENCIES.**

PROFESSIONAL REGISTRATION, LICENSES, OR ACCREDITATION

GRADE 4 WATER LICENSE, GRADE 4 WASTEWATER LICENSE MASTER
PLUMBER & GAS FITTER LICENSE

OTHER INFORMATION AND SKILLS

☒ Typing WPM _____ Microsoft Office Proficiency Level ☐ Beginning ☒ Intermediate ☐ Advanced
☒ Multi-line Telephone _____ Computer Software Used MS OFFICE, WORDPERFECT, ACTUS 123
 Drivers License Number and State 2537095 ALABAMA
 Shop and Outdoor Equipment Used _____
 Other Equipment, Skills or Aptitudes GENERAL MECHANICAL APTITUDE, SPECIALIZED ELECTRICAL TRAINING
 Have you ever been discharged or forced to resign from employment? ☒ Yes ☐ No If yes, give name of employer(s) and reason(s) _____
PROFESSIONAL SERVICES GROUP - I WAS TERMINATED IN ANTICIPATION OF THE CLOSING OF THE PROJECT I WAS MANAGING.
 Name of Relative(s) employed by the City of Auburn _____
NONE Relationship N/A

Have you ever been convicted of a crime (felony or misdemeanor including DUI) other than minor traffic citations? ☐ Yes ☒ No
 If yes, give details (note: A criminal record is not necessarily a bar to employment. Each applicant is considered on an individual basis.)

| | | | |
|--|----------------------------------|--|---------------------------------------|
| U.S. MILITARY | Branch of Service <u>US ARMY</u> | Dates From <u>5/1968</u> to <u>12/1972</u> | Rank <u>1ST LIEUTENANT</u> |
| Describe any training that you feel is relevant <u>LEADERSHIP TRAINING</u> | | | Type of Discharge <u>HONORABLE</u> |

Are you prevented from lawfully becoming employed in this country because of VISA or immigration status? ☐ Yes ☒ No
 Proof of citizenship or immigration status will be required upon employment

Applicant's Agreement:

I hereby state that the information given by me on this form and in any interview is certified to be true and complete. I understand that this information is subject to verification, and that if this information is later found to be untrue, incomplete, or misrepresented in any way, this will be cause for rejection of my application or, if already employed, for immediate dismissal. I also understand that the City of Auburn may investigate my driving record and my criminal record, and that a background investigation, including a credit check, may be prepared whereby information is obtained through personal interviews with my neighbors, friends, and others with whom I am acquainted. This inquiry includes information as to my character, general reputation, and personal characteristics. I understand that I have the right to make a written request within a reasonable period of time to receive additional detailed information about the nature and scope of this investigation. I understand that the City of Auburn reserves the right to require me to submit to a medical examination, including a drug/alcohol test, prior to employment and at any time during employment to the extent permitted by law. I understand that the Employer's acceptance of this application does not indicate there are any positions open and does not in any way obligate the City of Auburn. Job applicants are required to submit to drug testing at or near the final stage of the hiring process. Any offer of employment will be conditional upon a negative drug test result. I understand that anything brought to or removed from the premises of the City of Auburn is subject to search at the City's election and I consent to such search. Specifically, I authorize the City, in its discretion, to search my desk, locker, or other areas for contraband in such circumstances when the City deems such search necessary or appropriate.

I understand that this application will be given every consideration, but it is not a promise of employment. I further understand that if I am hired my employment will be for no definite period, regardless of the period of payment of my wages. I understand that I have the right to terminate my employment at any time, with or without notice, and the City of Auburn has the same right. No one other than the City Manager of the City of Auburn has the authority to modify this relationship or to make any agreement to the contrary. Any such modification or agreement must be in writing.

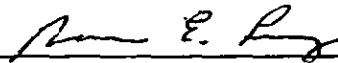
Applicant's Release:

I hereby authorize any prior employers to provide such information concerning my employment with them as may be requested, and also authorize the Registrar's or Placement Office of all educational institutions attended to release an official copy of my transcript if requested. In addition, I authorize any law enforcement jurisdiction to release any information requested regarding my background to the City of Auburn.

Selective Service Certification:

I certify that I comply with the provisions of the United States Military Service Act (50 U.S.C. App 453) by having registered with the Selective Board or that I am not required by law to register.

APPLICANT'S SIGNATURE


DATE 1/11/06

DO NOT WRITE BELOW THIS LINE

TEST RESULTS

Human Resource
Manag. Dept

-ADDITIONAL EMPLOYMENT HISTORY

Mobile County Water, Sewer & Fire Protection Authority
Highway 90 West
Theodore, Alabama 36652
334-653-7346

Position: General Manger
Worked directly under the appointed Water Board.
Employed from May, 1984 to December, 1990
Last Pay: \$35,000/ yr
Regular, full time salaried position
Left after an injury that wasn't work related caused an extended absence.

Lake Forest Utilities
Highway 98,
Daphne, AL 36626
334-626-2676

Position: Utility Superintendent
Supervisor: Cleve Henderson
Employed January, 1979 to May, 1984
Last Pay: \$24,000 /yr
Regular, full time, salaried position
Left because this privately owned system was being sold to the City of Daphne

City of Saraland, Alabama
Highway 43, North
Saraland, Alabama 36675
334-675-5301

Position: Wastewater Superintendent
Supervisor: William Mann
Last Pay: \$18,000/yr
Regular, full time, hourly position
Left because of a better job offer.

Mobile Water Service System
Cathern Street
Mobile, AL 36601
334-456-3756

Position: Operator
Supervisor: John von Spreckin
Last Pay: \$14,000/yr
Regular, full time hourly position
Left for a supervisory position.

EXHIBIT 10

City of Auburn

JOB TITLE: Chief Operator

WS/8

DEPARTMENT: Water Resource Management

FLSA Designation: Non-exempt

PAY GRADE: 16

EFFECTIVE DATE: June 1, 2004

JOB SUMMARY: This position is responsible for the operation of the water treatment plant.

MAJOR DUTIES:

- o Serves as the water treatment plant's lead operator.
- o Operates treatment plant machines and equipment to purify and clarify water for human consumption and industrial use.
- o Collects water samples from the plant and distribution system; performs chemical, physical, and bacteriological tests to ensure water quality; submits samples for testing as required by state agencies.
- o Determines and adds specified amounts of chemicals such as chlorine to disinfect, deodorize, and clarify water.
- o Maintains the efficiency of plant and laboratory operations, including maintenance of equipment, pumps, filters, and machinery, testing, quality control, and record-keeping procedures.
- o Performs routine and emergency equipment maintenance and repairs.
- o Performs minor repairs, operations adjustments, and preventive maintenance on plant equipment as needed.
- o May serve in the absence of the Water Plant Supervisor.
- o Performs other related duties as assigned.

KNOWLEDGE REQUIRED BY THE POSITION:

- o Knowledge of water system operations.

Chief Operator, Water and Sewer
Page 2

- o Knowledge of the handling and application of the chemicals necessary to maintain a safe water supply.
- o Knowledge of water treatment plant operations.
- o Knowledge of laboratory procedures.
- o Skill in basic chemistry, mathematics, and biology.
- o Skill in maintaining and repairing water treatment plant equipment.
- o Skill in performing standard laboratory-related mathematical calculations.
- o Skill in the use of water analysis equipment, meters, and gauges.
- o Skill in oral and written communication.

SUPERVISORY CONTROLS: The Water Plant Supervisor assigns work in terms of general instructions. The supervisor spot-checks completed work for compliance with procedures, accuracy, and the nature and propriety of the final results.

GUIDELINES: Guidelines include relevant state and federal regulations and drinking water guidelines, plant operations policies, department policies and procedures, and standard laboratory practices. These guidelines require judgment, selection, and interpretation in application.

COMPLEXITY: The work consists of varied mechanical and technical duties. Mechanical failures and changes in water quality contribute to the complexity of the work.

SCOPE AND EFFECT: The purpose of this position is to assist in the operation of the water treatment plant. Successful performance helps ensure a safe water supply.

PERSONAL CONTACTS: Contacts are typically with co-workers, state agency personnel, engineers, customers, vendors, suppliers, plant visitors, and the general public.

PURPOSE OF CONTACTS: Contacts are typically to give or exchange information, resolve problems and provide services.

PHYSICAL DEMANDS: The work is typically performed while sitting at a desk or table, standing, walking, bending, crouching, or stooping. The employee lifts light and heavy objects, uses tools or equipment requiring a high degree of dexterity, climbs ladders, and must be able to distinguish between shades of color.

EXHIBIT 11

Water Resource Management Department

Applicant Evaluation Summary

| | | | |
|-----------------------|----------------------------|-----------|----------------|
| Name of Applicant: | Norman Lacey | Date: | 3-16-06 |
| Position Applied for: | Water Distribution Manager | Reviewer: | Scott Cummings |

Does the applicant satisfy the minimum criteria described in the job description? yes

If not, describe what criteria, if any, would qualify the individual based on their qualifications versus the job description. _____

List aspects that are positive concerning the applicant's application/resume.

- many years experience in the water / wastewater utility business

List aspects that are negative concerning the applicant's application/resume.

- Does not appear to have experience dealing w/ public, scheduling resources, and managing budgets.

Interview? _____ Type: phone/individual/panel (circle all applicable)

List the interview team:

Comments from the interview concerning the applicant's capabilities

- seems to be very orderly & may have difficulty handling the fast paced & sometimes stressful conditions
- left all 3 on the interview team w/ uneasy feeling that he could handle the job.
- failed to demonstrate any initiative or motivation for the job
- Never talked to me or supervisor about job.

Is this individual the right person for the position? NO

Why/Why Not? See notes. Appears to be methodical but did not exhibit ability to lead Auburn into future.

- Talked w/ current supervisor about my issues and he could not offer any reason to think otherwise.

EXHIBIT 12

Water Resource Management Department

Applicant Evaluation Summary

| | | | |
|-----------------------|----------------------------|-----------|----------------|
| Name of Applicant: | Kyle Hildreth | Date: | 3-16-06 |
| Position Applied for: | Water Distribution Manager | Reviewer: | Scott Cummings |

Does the applicant satisfy the minimum criteria described in the job description? Yes

If not, describe what criteria, if any, would qualify the individual based on their qualifications versus the job description.

* Satisfies management and education but no experience with water or utility work

List aspects that are positive concerning the applicant's application/resume.

- Supervises staff and operations
- Manages water stress/situations
- Customer service experience
- Business Management Degree
- Budget Management

List aspects that are negative concerning the applicant's application/resume.

- No water system experience

Interview? _____ Type: phone/individual/panel (circle all applicable)

List the interview team:

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Comments from the interview concerning the applicant's capabilities.

- Most liked by all 7 participants of interview team
- Dealt best answers for management and supervision
- Good response to learning operations and developing relationships w/ staff
- Demonstrates excellent customer service skills/potential

Is this individual the right person for the position? Yes

Why/Why Not? see Above

- 2 staff on interview team stated they would work w/ someone to learn the system and our operations if
- 1 is a good leader and they agreed that

EXHIBIT 13

CITY OF AUBURN EMPLOYMENT APPLICATION

PRINT IN INK OR TYPE. COMPLETE CAREFULLY & IN FULL
RESUME MAY BE ATTACHED BUT WILL NOT SUBSTITUTE FOR COMPLETION OF APPLICATION



The City of Auburn is an Equal Opportunity Employer. It is our policy to provide equal employment opportunities for all individuals without regard to race, sex, age, religion, color, national origin, disability, or veteran status.

| | | | |
|---|--------------------|--------------------------|--|
| NAME (Last) <u>Hildreth</u> (First) <u>Kyle</u> (Middle) <u>Russell</u> | | | SOCIAL SECURITY NO. <u>419-96-0290</u> |
| Any other name, such as nicknames, maiden name, or assumed name, needed to verify the contents of this application. | | | HOME PHONE <u>(334) 887-6682</u> |
| ADDRESS (Number and Street) <u>1109 E. Samford Ave.</u> | | | ALTERNATE PHONE () |
| CITY <u>Auburn</u> | STATE <u>AL</u> | ZIP CODE <u>36830</u> | E-MAIL ADDRESS <u>hildreth6@netzero.net</u> |
| POSITION DESIRED <u>Water Distribution Manager</u> | | | TYPE OF EMPLOYMENT PREFERRED (please check only one) |
| Have you reviewed the job description? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No | | | <input checked="" type="checkbox"/> Regular/Full-Time <input type="checkbox"/> Regular/Part-Time |
| | | | <input type="checkbox"/> Temporary/Full-Time <input type="checkbox"/> Temporary/Part-Time |
| Have you been previously employed with the City of Auburn? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No If yes, list the dates of employment _____ | | | |
| Title _____ Department _____ Who was your supervisor? _____ | | | |

| EDUCATION | Circle Year Completed | Major | Are you currently enrolled? | Degree Obtained |
|--------------------------------------|--|----------------------------|---|-----------------|
| High School <u>Auburn High</u> | Fr. So. Jr. <input checked="" type="radio"/> GED | | Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> | |
| Junior College <u>Southern Union</u> | <input checked="" type="radio"/> So. Jr. Sr. | | Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> | |
| College <u>Auburn University</u> | Fr. So. Jr. <input checked="" type="radio"/> | <u>Business Management</u> | Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> | <u>B.S.</u> |
| Graduate or Vocational School | | | Yes <input type="checkbox"/> No <input type="checkbox"/> | |

| EMPLOYMENT HISTORY - List entire employment history, starting with your present employer (attach additional sheets if necessary). | | | | |
|---|--|-----------------------------------|--|--|
| Company Name: <u>Twih City Concrete</u> | Position: <u>Plant Manager</u> | Last Pay Rate: <u>4313 / mo.</u> | | |
| Address: <u>214 Twih City Ct.</u> | Supervisor's name: <u>Charles Bell</u> | Hours Per Week: <u>50-70</u> | | |
| City / State / Zip: <u>Auburn, AL 36830</u> | From: <u>August 1988</u> | Reason for Leaving: _____ | | |
| Phone #: <u>334-821-3363</u> | To: <u>Present</u> | | | |
| Company Name: <u>J&M Bulkstore</u> | Position: <u>Stock Clerk</u> | Last Pay Rate: <u>\$5.50 / hr</u> | | |
| Address: <u>115 S. College St.</u> | Supervisor's name: <u>Wyman Hildreth</u> | Hours Per Week: <u>30-45</u> | | |
| City / State / Zip: <u>Auburn, AL 36830</u> | From: <u>August 1980</u> | Reason for Leaving: <u>School</u> | | |
| Phone #: <u>334-887-7007</u> | To: <u>November 1987</u> | | | |
| Company Name: _____ | Position: _____ | Last Pay Rate: _____ | | |
| Address: _____ | Supervisor's name: _____ | Hours Per Week: _____ | | |
| City / State / Zip: _____ | From: _____ | Reason for Leaving: _____ | | |
| Phone #: _____ | To: _____ | | | |
| May we contact the employers listed above? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No If not, please indicate which one(s) you do not want us to contact _____ | | | | |

Briefly describe major duties of positions previously held and further details of qualifications. Daily operations of company; order and schedule delivery of materials and maintain inventory; schedule start times and supervise 18-20 employees; receive orders and prioritize delivery of shipments; work with customers to ensure satisfaction; maintain quality control; assist in processing payroll.

PROFESSIONAL REGISTRATION, LICENSES, OR ACCREDITATION**OTHER INFORMATION AND SKILLS**

☐ Typing WPM _____ Microsoft Office Proficiency Level: ☐ Beginning ☒ Intermediate ☐ Advanced

☒ Multi-line Telephone _____ Computer Software Used Word, Excel

Drivers License Number and State: 4862978 Alabama

Shop and Outdoor Equipment Used: Front End Loader

Other Equipment, Skills or Aptitudes: _____

Have you ever been discharged or forced to resign from employment? ☐ Yes ☒ No If yes, give name of employer(s) and reason(s) _____

Name of Relative(s) employed by the City of Auburn. _____

Relationship _____

Have you ever been convicted of a crime (felony or misdemeanor including DUI) other than minor traffic citations? ☐ Yes ☒ No
If yes, give details (note: A criminal record is not necessarily a bar to employment. Each applicant is considered on an individual basis.) _____

U.S. MILITARY Branch of Service _____

Dates From _____ To _____

To _____

Rank _____

Describe any training that you feel is relevant: _____

Type of Discharge: _____

Are you prevented from lawfully becoming employed in this country because of VISA or immigration status? ☐ Yes ☒ No
Proof of citizenship or immigration status will be required upon employment.

Applicant's Agreement:

I hereby state that the information given by me on this form and in any interview is certified to be true and complete. I understand that this information is subject to verification, and that if this information is later found to be untrue, incomplete, or misrepresented in any way, this will be cause for rejection of my application or, if already employed, for immediate dismissal. I also understand the City of Auburn may investigate my driving record and my criminal record, and that a background investigation, including a credit check, may be prepared whereby information is obtained through personal interviews with my neighbors, friends, and others with whom I am acquainted. This inquiry includes information as to my character, general reputation, and personal characteristics. I understand that I have the right to make a written request within a reasonable period of time to receive additional detailed information about the nature and scope of this investigation. I understand that the City of Auburn reserves the right to require me to submit to a medical examination, including a drug/alcohol test, prior to employment and at any time during employment to the extent permitted by law. I understand that the Employer's acceptance of this application does not indicate there are any positions open and does not in any way obligate the City of Auburn. Job applicants are required to submit to drug testing at or near the final stage of the hiring process. Any offer of employment will be conditional upon a negative drug test result. I understand that anything brought to or removed from the premises of the City of Auburn is subject to search at the City's election and I consent to such search. Specifically, I authorize the City, in its discretion, to search my desk, locker, or other areas for contraband in such circumstances when the City deems such search necessary or appropriate.

I understand that this application will be given every consideration, but it is not a promise of employment. I further understand that if I am hired my employment will be for no definite period, regardless of the period of payment of my wages. I understand that I have the right to terminate my employment at any time, with or without notice, and the City of Auburn has the same right. No one other than the City Manager of the City of Auburn has the authority to modify this relationship or to make any agreement to the contrary. Any such modification or agreement must be in writing.

Applicant's Release:

I hereby authorize any prior employers to provide such information concerning my employment with them as may be requested, and also authorize the Registrar's or Placement Office of all educational institutions attended to release an official copy of my transcript if requested. In addition, I authorize any law enforcement jurisdiction to release any information requested regarding my background to the City of Auburn.

Selective Service Certification:

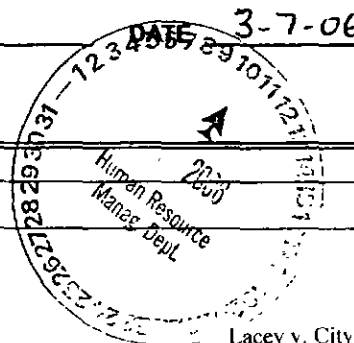
I certify that I comply with the provisions of the United States Military Service Act (50 U.S.C. App 453) by having registered with the Selective Board or that I am not required by law to register.

APPLICANT'S SIGNATURE _____

Kyle R. Hilbreth

DO NOT WRITE BELOW THIS LINE

TEST RESULTS _____



Lacey v. City of Auburn

0055

EXHIBIT 14



Address:

5508 North Avenue

Valley, AL 36854

SS # 419-666-2239

TO: Personnel File

FROM: Michelle

DATE: 7/20/06

RE: In-house Termination Checklist

 Employee Name Norman Lacey Employee # 4735 Status RF RP
P.A. on exiting employee is received and completed ☒Employee personnel and medical folder pulled ☒* Separation pay is computed with unused annual/sick leave and balanced by HRM ☒Notification to dental insurance company ☒☒ Single ☐ Family ☒ CafeteriaNotification to medical insurance company ☒☒ Single ☐ Family ☒ CafeteriaCOBRA form has been sent to employee ☒SIC termination form has been completed and mailed to SIC ☒Retirement form has been sent to employee ☒Benefit Elect termination form has been completed and mailed to Benefit Elect ☒Unreimbursed medical option balance has been checked if applicable ☒Deferred compensation program forms have been mailed and Finance notified of terminating employee ☒Exit interview form and letter has been completed and mailed ☒Heidi notified if employee has garnishments ☒Tuition reimbursement has been checked ☒Final paycheck will be given to department or mailed on 8/10/06 ☒Lacey v. City of Auburn
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EXHIBIT 15



City of Auburn

Home of Auburn University

July 20, 2006

Certified Mail

Norman Lacey
5508 16th Avenue
Valley, AL 36854

Dear Norman,

Please find enclosed several items, which need your attention.

Request For Refund form for RSA. It is very important that you finish completing this form in **BLACK INK** and mail to the address listed at the top of the form.

Application for Continuation of Coverage with BlueCross BlueShield of Alabama. Your medical insurance terminates on **09/01/06**; therefore, you have sixty (60) days from that date to apply for COBRA. Please read the *General Notice of COBRA Continuation Coverage Rights*, then complete the COBRA Continuation Coverage Election Form and return to me.

When you terminate with the City, you have the option of converting your life insurance, which was a benefit the City paid for you, over to an individual policy. If you are interested in converting your policy please call me at 334-501-7244, and I will send you the necessary information.

Just a reminder, if you are moving, please notify us of your new address so that you may receive your W-2 for the current year in a timely manner.

If I can be of any other assistance, please feel free to call me.

Sincerely,

Michelle Lee Wall
Payroll & Benefits Coordinator

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0090

EXHIBIT 16

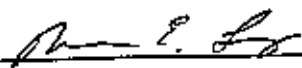


City of Auburn

HOME OF AUBURN UNIVERSITY

EMPLOYMENT AT-WILL DISCLAIMER

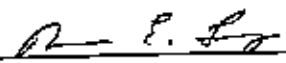
I understand the City of Auburn may terminate my employment at any time, with or without cause, and with or without prior notice. I understand that, except by written agreement signed by the City Manager, no department head, employee or other City representative has any authority (a) to promise employment for a particular length of time, or (b) to make any other promises or representations about my future employment with the City of Auburn.


Signature

8/2/99
Date

PHYSICAL EXAMINATION

I understand the City of Auburn may require me at any time to have a physical examination by a City-authorized physician, fully licensed, to determine if I am able to perform the duties of a specific job in a safe manner.



Signature

8/2/99
Date

CITY EQUIPMENT

I understand that all records, assets, and all items of the City of Auburn distributed to me during my employment shall be returned to my supervisor or department head.

Any amount due because of a shortage in the above shall be withheld from my final compensation.


Signature

8/2/99
Date

Lacey v. City of Auburn
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CORRECTED EXHIBIT 10

City of Auburn

JOB TITLE: Water Distribution Manager

WS/1

DEPARTMENT: Water Resource Management

FLSA Designation: Exempt

PAY GRADE: 20

EFFECTIVE DATE: December 19, 2005

JOB SUMMARY: This position is responsible for management of water distribution, meter reading, and water service operations for the City.

MAJOR DUTIES:

- o Manages all operations of the water distribution system and storage facilities.
- o Manages meter reading, construction, maintenance and service operations for the City water distribution system to ensure high quality service in compliance with applicable requirements.
- o Ensures safe drinking water through compliance with regulatory requirements
- o Develops budget recommendations for assigned area and manages budget following adoption to ensure efficient and proper utilization.
- o Provides customer service and responds to customer complaints.
- o Assists in the review of development plans and ensures that developers and contractors comply with Water Board and City construction standards and requirements; coordinates with City inspectors as necessary.
- o Assists in the coordination of system improvement design with developers, contractors, and consulting engineers.
- o Selects, trains, supervises and evaluates personnel.
- o Promotes employee safety through safety training and adherence to safe work practices.
- o Maintains security of water storage facilities.

Water Distribution Manager, Water and Sewer
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- o Coordinates with Warehouse Manager to ensure needed supplies and inventory are available in a timely manner.
- o Attends conferences, workshops and training sessions as directed.
- o Performs other related duties as assigned.

KNOWLEDGE REQUIRED BY THE POSITION:

- o Knowledge of local, state, and federal codes, acts, and policies concerning water, wastewater, and water pollution control.
- o Knowledge of water distribution and water treatment operations.
- o Knowledge of water and sewer line construction and maintenance procedures.
- o Knowledge of basic civil engineering and land surveying principles and practices.
- o Knowledge of public administration, municipal accounting, and budget procedures.
- o Knowledge of the principles and practices of water utility business management.
- o Skill in management and supervision of employees.
- o Skill in reading maps, construction plans, and blueprints.
- o Skill in managing water distribution, water treatment, and customer service.
- o Skill in operating such office equipment as a computer and calculator.
- o Skill in interpersonal relations.
- o Skill in oral and written communication.

SUPERVISORY CONTROLS: The Director of Water Resource Management assigns work in terms of very general instructions. The supervisor spot-checks completed work for compliance with procedures and the nature and propriety of the final results.

GUIDELINES: Guidelines include department policies and procedures, ADEM and EPA guidelines, AWWA standards and Southern Plumbing Code. These guidelines require judgment, selection, and interpretation in application.

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COMPLEXITY: The work consists of varied management and supervisory duties. The high customer turn over rate contributes to the complexity of the job.

SCOPE AND EFFECT: The purpose of this position is to maintain the operation of the City of Auburn water distribution system and supervise meter reading activities. Successful performance ensures that the citizens are provided with safe and efficient water services.

PERSONAL CONTACTS: Contacts are typically with regulatory agency personnel, engineers, consultants, manufacturers and suppliers, other City employees, and the general public.

PURPOSE OF CONTACTS: Contacts are typically to give or exchange information, resolve problems, provide services, and motivate personnel.

PHYSICAL DEMANDS: The work is typically performed while sitting. The employee frequently lifts light and heavy objects and climbs ladders. The employee must use tools requiring a high degree of dexterity and must be able to distinguish between shades of color.

WORK ENVIRONMENT: The work is typically performed in an office, stockroom or warehouse. The employee may be exposed to noise, dust, dirt, grease, machinery with moving parts, contagious and infectious diseases and irritating chemicals. Work may be performed outdoors and occasionally in cold or inclement weather and requires the use of protective equipment

SUPERVISORY AND MANAGEMENT RESPONSIBILITY: This position has direct supervision over Senior Meter Technician (1), Water Coordinator and (1), and Utility Construction Supervisor (1).

MINIMUM QUALIFICATIONS:

- o Knowledge and level of competency commonly associated with the completion of specialized training in the field of work, in addition to basic skills typically associated with a high school education.
- o Experience sufficient to thoroughly understand the work of subordinate positions to be able to answer questions and resolve problems, usually associated with one to three years experience or service.
- o Possession of or ability to readily obtain an appropriate state-certified license for water treatment and distribution as appropriate.